CITY COUNCIL REGULAR MEETING AGENDA

REGULAR COUNCIL MEETING
MONDAY
JULY 3, 2023

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
3:00 P.M.

All City Council Meetings are live streamed on the city's website (https://www.flagstaff.az.gov/1461/Streaming-City-Council-Meetings)

PUBLIC COMMENT

Verbal public comments may be given through a virtual public comment platform or in-person

If you want to provide a verbal comment during the Council Meeting, use the link below to join the virtual public comment room.

VIRTUAL PUBLIC COMMENT WAITING ROOM

Written comments may be submitted to publiccomment@flagstaffaz.gov. All comments submitted via email will be considered written comments and will be documented into the record as such.

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1. CALL TO ORDER

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for discussion and consultation with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. ROLL CALL

NOTE: One or more Councilmembers may be in attendance through other technological means.

MAYOR DAGGETT
VICE MAYOR ASLAN
COUNCILMEMBER HARRIS
COUNCILMEMBER HOUSE
COUNCILMEMBER MATTHEWS
COUNCILMEMBER MCCARTHY
COUNCILMEMBER SWEET

3. PLEDGE OF ALLEGIANCE, MISSION STATEMENT, AND LAND ACKNOWLEDGEMENT

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

LAND ACKNOWLEDGEMENT

The Flagstaff City Council humbly acknowledges the ancestral homelands of this area's Indigenous nations and original stewards. These lands, still inhabited by Native descendants, border mountains sacred to Indigenous peoples. We honor them, their legacies, their traditions, and their continued contributions. We celebrate their past, present, and future generations who will forever know this place as home.

4. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

5. PROCLAMATIONS AND RECOGNITIONS

A. July Work Anniversaries and Retirement

Recognition of employees celebrating work anniversaries and retirement in the month of July

6. COUNCIL LIAISON REPORTS

7. APPOINTMENTS

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).

A. Consideration of Appointment: Sustainability Commission.

STAFF RECOMMENDED ACTION:

Make two appointments to terms expiring October 2025.
Make two appointments to terms expiring October 2023.

B. Consideration of Appointments: Transportation Commission.

STAFF RECOMMENDED ACTION:

Make two appointments to terms expiring July 2026.
Make one appointment to a term for a NAIPTA Representative seat expiring November 2025.

8. LIQUOR LICENSE PUBLIC HEARINGS

A. **Consideration and Action on Liquor License Application:** Zachariah Adam Miller, "Americana Motor Hotel," 2650 E. Route 66, Series 11 (Hotel/Motel), New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

The City Council has the option to:
1) Forward the application to the State with a recommendation for approval;
2) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

B. **Consideration and Action on Liquor License Application:** Troy Travis Spray, "Altitudes of Flagstaff," 2 South Beaver Street, Series 12 (restaurant), New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

9. CONSENT ITEMS

All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.

A. **Consideration and Approval of Contract:** Contract for Services to Conservation Legacy in a total amount of $149,850 including a Grant Award from Arizona State Parks for the Picture Canyon Restoration and Trail Work

STAFF RECOMMENDED ACTION:

1. Approve the Contract for Services to Conservation Legacy in the total amount of $149,850.00 including a Grant Award from Arizona State Parks for Picture Canyon Restoration and Trail Work; and
2. Authorize the City Manager to execute the necessary documents.

B. **Consideration and Approval of Contract:** Approve a Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $63,300.00, in addition to other fees and taxes, for an Emergency Response Truck.

STAFF RECOMMENDED ACTION:

1. Approve a Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $63,300, in addition to other fees and taxes, for a Emergency Response Truck; and
2. Authorize the City Manager to execute the necessary documents.

C. **Consideration and Approval of Contract:** Construction Manager at Risk Construction Services Agreement with Eagle Mountain Construction, Inc. for the Grandview Utilities and Wedge Clearing portion of the Spruce Wash Flood Mitigation Suite of Projects.

STAFF RECOMMENDED ACTION:

1. Approve the Construction Manager at Risk Construction Services Agreement with Eagle Mountain Construction for a Guaranteed Maximum Price (GMP1) in the amount of $2,906,383.00 and a contract duration of 845-calendar days;
2. Approve an Owners Contingency of $50,000.00, which is 2% of the Guaranteed Maximum Price; and
3. Authorize the City Manager to execute the necessary documents.

D. **Consideration and Approval of Contract:** Lumen Utility Relocation for the Rio de Flag Flood Control Project and Addition of City Fiber Conduit

STAFF RECOMMENDED ACTION:

1. Approve the Lumen Utility Relocation and City Fiber Addition Proposal and a Not-to-Exceed (NTE) payment authority of $250,000; and
2. Authorize the City Manager to execute the necessary documents.

E. **Consideration and Approval of Revised Grant Agreement:** Revised Grant agreement between the U.S. Department of Housing and Urban Development and the City of Flagstaff for the Flagstaff Home Energy Retrofit Program for low-income and vulnerable families.

STAFF RECOMMENDED ACTION:

Approve the revised U.S. Department of Housing and Urban Development grant for FY2022 Economic Development Initiative, Community Project Funding Grant (B-22-CP-AZ-0018), in the amount of $750,000 for the Flagstaff Home Energy Retrofit Program for low-income and vulnerable families.

F. **Consideration and Approval of Grant Agreement:** Approve Grant Agreement with the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds in the amount of $219,363.82 for the Northern Arizona Street Crimes Task Force (METRO unit).

STAFF RECOMMENDED ACTION:

Approve the acceptance of the grant from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, Edward Byrne Justice Assistance Grant funds in the amount of $219,363.82 for FY2023-2024.

G. **Consideration and Approval of Contract:** Approve the Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $183,380.00, plus additional fees and costs to purchase three 2024 Chevrolet pickup trucks for the Streets Section

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $183,380.00, plus additional fees and costs to purchase three 2024 Chevrolet pickup trucks for the Streets Section; and
2. Authorize the City Manager to execute the necessary documents.

H. **Consideration and Approval of Contract:** Cooperative Purchase Contract with Brightly Software, Inc. in the amount of $308,022.53, plus additional fees and taxes, for Facilities Maintenance Software

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Brightly Software, Inc. in the amount of $308,022.53, plus additional fees and taxes, for Facilities Maintenance Software; and
2. Authorize the City Manager to execute the necessary documents.

I. **Consideration and Approval of Contract Amendment:** Purchase Contract for property acquisition services with TB Real Property Consultants, LLC in the amount of $100,000.00 for property acquisitions necessary for the Milton Road and University Avenue Right of Way Capital Project.

STAFF RECOMMENDED ACTION:

1. Approve an amendment to the contract for property acquisition services with TB Real Property Consultants, LLC, to increase the scope of work and contract amount to an amount not to exceed $100,000.00 for property acquisitions necessary for the Milton Road and University Avenue Right of Way Capital Project; and
2. Authorize the City Manager to execute the necessary documents.

J. **Consideration and Approval of Grant Agreement:** Arizona 911 Grant Agreement between Arizona Department of Administration Office of Grants and Federal Resources and the City of Flagstaff Acting as System Administrator for Coconino County in the amount of $943,515.00.

STAFF RECOMMENDED ACTION:

Approve the grant agreement from the Arizona Department of Administration Office of Grants and Federal Resources in the amount of $943,515.00 for the 911 budget for Coconino County.

K. **Consideration and Approval of Contract:** Approve the Cooperative Purchase Contract with AT&T Corp. in the amount of $2,340,156.05 to transition to the Next Gen 9-1-1 Call System and Equipment.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with AT&T Corp. in the amount of $2,340,156.05 to transition to the Next Gen 9-1-1 Call System and Equipment; and
2. Authorize the City Manager to execute the necessary documents.

L. **Consideration and Approval of Lease Renewal Amendments:** Lease No: GS-09P-LAZ94446 for Building 3 and GS-09P-LAZ03408 for Buildings 4 and 5 of the United States Geological Survey (USGS) facility located at 2255 North Gemini Drive.

STAFF RECOMMENDED ACTION:

1. Approve the lease renewal amendments to extend the term of the leases from 12/31/2023 to 12/31/2028 with an option to extend for an additional 5 year term until 12/31/2033.
2. Authorize the City Manager to execute the necessary documents.

M. **Consideration and Approval of Contract:** Approve a Cooperative Purchase Contract with Goodmans Interior Structures in the amount of $146,397.72, in addition to taxes and other charges, for the purchase and installation of new cubicles and office furniture for the Community Development and City Engineering Divisions.

STAFF RECOMMENDED ACTION:

1. Approve a Cooperative Purchase Contract with Goodmans Interior Structures in the amount of $146,397.72, in addition to taxes and other charges, for the purchase and installation of new cubicles and office furniture; and
2. Authorize the City Manager to execute the necessary documents.

10. ROUTINE ITEMS

A. **Consideration and Adoption of Ordinance No. 2023-15:** An ordinance levying upon the assessed valuation of the property within the City of Flagstaff, Arizona, subject to taxation a certain sum upon each one hundred dollars ($100.00) of valuation sufficient to raise the amount estimated to be required in the Annual Budget, less the amount estimated to be received from other sources of revenue; providing funds for various bond redemptions, for the purpose of paying interest upon bonded indebtedness and providing funds for general municipal expenses, all for the Fiscal Year ending the 30th day of June 2024. **(Primary and secondary property tax levies for FY 2023-2024)**

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-15 by title only for the final time
2) City Clerk reads Ordinance No. 2023-15 by title only (if approved above)
3) Adopt Ordinance No. 2023-15

B. **Consideration and Adoption of Ordinance No. 2023-20**: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff Zoning Map to rezone approximately 1.17 acres of real property located at 1899 S Woodlands Village Boulevard from the Light Industrial Open (LI-O) zone with the Resource Protection Overlay (RPO) to the Highway Commercial (HC) zone with the Resource Protection Overlay (RPO), providing for severability, authority for clerical corrections, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-20 by title only for the final time
2) City Clerk reads Ordinance No. 2023-20 by title only (if approved above)
3) Adopt Ordinance 2023-20.

C. **Consideration and Adoption of Resolution No. 2023-38 and Ordinance No. 2023-16:** A resolution of the Flagstaff City Council declaring as a public record that certain document filed with the City Clerk and entitled "2023 Short-Term Rental Code", and an ordinance of the City Council amending the Flagstaff City Code, Title 3 Business Regulations, by adopting by reference that certain document entitled "2023 Short-Term Rental Code".

STAFF RECOMMENDED ACTION:

1) Adopt Resolution No. 2023-38
2) Read Ordinance No. 2023-16 by title only for the final time
3) City Clerk reads Ordinance No. 2023-16 by title only (if approved above)
4) Adopt Ordinance No. 2023-16

D. **Consideration and Adoption of Ordinance No. 2023-14:** An ordinance of the City Council of the City of Flagstaff authorizing the acquisition of real property for the Lone Tree Overpass Project; providing for delegation of authority, subsequent City Council approvals, severability, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-14 by title only for the final time
2) City Clerk reads Ordinance No. 2023-14 by title only (if approved above)
3) Adopt Ordinance No. 2023-14

E. **Consideration and Adoption of Ordinance No. 2023-17:** An ordinance of the City Council of the City of Flagstaff, abandoning approximately 5,140 square feet of public right-of-way connecting to the north side of West Route 66, providing for sale of such property, delegation of authority, recording, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-17 by title only for the final time
2) City Clerk reads Ordinance No. 2023-17 by title only (if approved above)
3) Adopt Ordinance No. 2023-17

F. **Consideration and Adoption of Ordinance No. 2023-19:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Chapter 1-18, Administrative Departments, to rename the City Clerk Division to the Communication and Civic Engagement Division

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-19 by title only for the final time
2) City Clerk reads Ordinance No. 2023-19 by title only (if approved above)
3) Adopt Ordinance No. 2023-19

G. **Consideration and Adoption of Ordinance No. 2023-18:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 1 Administrative, Chapter 1-16, City Elections, to provide for the manner of conducting elections for initiative and referendum measures, providing for severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-18 by title only for the final time
2) City Clerk reads Ordinance No. 2023-18 by title only (if approved above)
3) Adopt Ordinance No. 2023-18

H. **Consideration and Approval of Contract:** Professional Services Contract with Shephard Wesnitzer, Inc, an Ardurra Company, in the amount of $499,520.00 for inspection services of the Inner Basin Waterline Restoration Project.

STAFF RECOMMENDED ACTION:

1. Approve the Professional Services Contract for inspection services with Shephard Wesnitzer Inc., (SWI) an Ardurra Company, in the amount of $499,520.00 and a contract duration of 516 calendar days;
2. Approve Change Order Authority to the City Manager in the amount of $49,952.00 which is 10% of the contract amount; and
3. Authorize the City Manager to execute the necessary documents.

I. **Consideration and Approval of Contract:** A Professional Services Contract with DOWL, LLC in an amount not to exceed $523,993.00 for a Land Availability and Suitability Analysis and a Development Code and Process Analysis

STAFF RECOMMENDED ACTION:

1. Award a Professional Services Contract with DOWL, LLC, in an amount not to exceed $523,993.00 for a Land Availability and Suitability Analysis and a Development Code and Process Analysis; and
2. Authorize the City Manager to execute the necessary documents.

11. REGULAR AGENDA

A. **Consideration and Adoption of Resolution No. 2023-40:** A resolution of the Flagstaff City Council, designating its Chief Fiscal Officer for officially submitting the fiscal year 2023-2024 expenditure limitation report to the Arizona Auditor General, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2023-40 by title only
2) City Clerk reads Resolution No. 2023-40 by title only (if approved above)
3) Adopt Resolution No. 2023-40

B. **Consideration and Adoption of Resolution No. 2023-27:** A resolution approving the designation of an applicant agent and authorizing the agent to apply for and sign on behalf of the City of Flagstaff for the receipt of funds from the Arizona Department of Emergency Management and Military Affairs Assistance Programs.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2023-27 by title only
2) City Clerk reads Resolution No. 2023-27 by title only (if approved above)
3) Adopt Resolution No. 2023-27

C. **Consideration and Adoption of Resolution No. 2023-42:** A resolution of the City Council of the City of Flagstaff, Arizona amending the Procurement Code Manual, Articles 1 through 7, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2023-42 by title only
2. City Clerk reads Resolution No. 2023-42 by title only (if approved above)
3. Adopt Resolution No. 2023-42

D. **Consideration and Adoption of Resolution No. 2023-41:** A resolution of the Flagstaff City Council adopting amendments to the Active Transportation Master Plan

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2023-41 by title only
2) City Clerk reads Resolution No. 2023-41 by title only (if approved above)
3) Adopt Resolution No. 2023-41

E. **Citizen Petition: Consideration of Prior Council Action: Consideration and Approval of Contract:** Approve a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park.

STAFF RECOMMENDED ACTION:

Should the Council wish to consider this prior action, a motion to consider the prior action of Council regarding the Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park would be required to be made.

i. **Consideration and Approval of Contract (Contingent Upon Approval of Previous Item):** Approve a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park.

STAFF RECOMMENDED ACTION:

1. Consider and approve a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park; and
2. Authorize the City Manager to execute the necessary documents.
3. Provide further staff direction, if desired.

F. **Consideration of Citizen Petition:** A Citizens' Petition titled Reconsideration of Pickleball Courts at Thorpe Park Annex

STAFF RECOMMENDED ACTION:

Council direction.

12. DISCUSSION ITEMS

A. **City Council discussion regarding the City of Flagstaff's Tobacco 21 Ordinance.**

STAFF RECOMMENDED ACTION:

Discussion

13. FUTURE AGENDA ITEM REQUESTS

After discussion and upon agreement by three members of the Council, an item will be moved to a regularly-scheduled Council meeting.

A. **Future Agenda Item Request (F.A.I.R.):** A request by Vice Mayor Aslan to place on a future agenda a discussion about a pond next to Ponderosa Trails neighborhood between Pulliam and I-17.

STAFF RECOMMENDED ACTION:

Council direction.

B. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember House to place on a future agenda a discussion about designating Juneteenth as an official holiday for the City of Flagstaff

STAFF RECOMMENDED ACTION:

Council direction.

14. PUBLIC PARTICIPATION

15. INFORMATIONAL ITEMS TO/FROM MAYOR, COUNCIL, AND STAFF, AND FUTURE AGENDA ITEM REQUESTS

16. ADJOURNMENT

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2023.

_____
Stacy Saltzburg, MMC, City Clerk

5. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:
July Work Anniversaries and Retirement

DESIRED OUTCOME:
Recognition of employees celebrating work anniversaries and retirement in the month of July

EXECUTIVE SUMMARY:

INFORMATION:

Attachments: Presentation

July Employee Work Anniversaries!



Five Year Anniversaries

Laura Love
Recreation Leader II



Five Year Anniversaries

Cherise Barreto-Aguilar
Housing Services Specialist
Lead



Five Year Anniversaries



Elijah Kim
Police Officer



Five Year Anniversaries

Andrew Warner
Parks Technician





Five Year Anniversaries

Mathias Tye
Recreation Leader II



Five Year Anniversaries

Ian Anderson
Parks Technician



Five Year Anniversaries



Jacob Earl
Firefighter

Five Year Anniversaries

Ryan Richards
Firefighter Paramedic



Five Year Anniversaries



Sean Connolly
Firefighter Paramedic



Ten Year Anniversaries

George Pryer
Streets Operations Tech II



Ten Year Anniversaries



Angela Eberhardt
Evidence Technician

Ten Year Anniversaries

Bradley Gilbert
Police Officer



Ten Year Anniversaries



Erin Young
Water Services Manager









Ten Year Anniversaries

Jennifer Mikelson
Housing Analyst



TEAM FLAGSTAFF
WE MAKE THE CITY BETTER






Fifteen Year Anniversaries

Joyce Otero
Recreation Leader I

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER






Fifteen Year Anniversaries

Amelia Mason
Library Supervisor



Twenty Year Anniversaries



Keith Cashatt
Fire Captain



Twenty Year Anniversaries

Joseph Toth
Fire Captain Paramedic





Twenty Year Anniversaries



Matthew Morales
Sr Project Manager

25 years plus!!!



Angel Baca is celebrating 25 years of dedicated and continuous service to the City of Flagstaff. Angel came to Flagstaff as a young teenager. He has been a wonderful and versatile co-worker over his winding path through the City. Angel started with the City in 1998 as a materials technician in the Testing and Materials Lab Section of the Engineering Division. Angel worked his way up through the ranks of the Materials Section to eventually be in charge of running the City's Materials Lab. In 2005 Angel moved from the Materials Lab to the Inspections side of the section, as an Inspector I. Later he became the Inspection Supervisor and now leads the Inspections Program as the Construction Manager.

Angel is known throughout the City and construction industry as a friendly, fair and compassionate partner. Contractors for years have asked for Angel to be assigned to their projects, not because he is an 'easy signoff' (he isn't), but because he'll work with them to solve problems and get their projects successfully completed.

Angel was integrally involved with assuring the quality and compliance of a vast number of projects which have transformed Flagstaff over his tenure. Some of the notable projects in which Angel played an integral part include the Marketplace at the Mall, Fourth Street Overpass, Butler and Ponderosa Parkway Intersection and for many years he was know as the "Downtown Inspector" overseeing some of the most difficult and complex projects including Heritage Square and major improvement projects transforming South San Francisco, Beaver and Leroux Streets.









25 years plus!!!

Trish has shown versatility and adaptation to meet many challenges over the course of her 29 years at the Tuba City Public Library. She is committed to her work and is resourceful in carrying out her daily duties following the protocols as a City of Flagstaff employee. Trish works as a team player with her colleagues Pearl, Sina and Delmar at the Tuba City Public Library. Together they make selections for library materials while weeding outdated and damaged materials. Trish is courteous, patient, and respectful among library patrons and library staff countywide. Trish resolves matters with a cool and calm demeanor and is always willing to help with tasks that arise including offering recommendations and implementation of library programs and grant monies. Trish is an invaluable employee to the Flagstaff City-Coconino County Library System.



TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

25 Years Plus!!!

Deputy Chief Mark Wilson is celebrating 31 years of service with the City of Flagstaff's Fire Department this month. Mark was hired in 1992 as a firefighter and has promoted up through the ranks as an Engineer, Captain, Battalion Chief, BC of training, and Deputy Chief in 2020. Among Mark's many contributions is his leadership in support services. From staffing and equipping our new and successful CARE program, to capital planning, to implementing Performance Based Budgeting, he has been key to our success. He recently reorganized the administrative function of the City and the Summit Fire and Medical Districts to gain greater efficiencies and professional development opportunities for our team. Outside of work Mark has many roles: husband, father, sports coach, church leader, hunter, fisherman, etc. All of which he does with great pride and commitment. Public service definitely runs in the Wilson blood as we are blessed to have his brother Dave as a Battalion Chief, and Mark's son, Kyle as a new firefighter with the department. FFD is proud of Mark's success and are so very happy to celebrate his 30 years of service with us.



Chief Wilson is a critical component of our Command Team. His devotion to the Department, Team Flagstaff, and the community is evident each day. His creativity in the administrative support services function of our department has been remarkable and an important part of our success.







25 Years Plus!!!

Cathleen Harrison – Fazzary began her employment with the Flagstaff Municipal Court in July of 1989, as a Court Clerk I. Through the years she promoted to Court Clerk II and ultimately to Deputy Court Administrator in May of 2001, she continues to serve in this capacity where she oversees Court Services. Cathleen is extremely dependable, highly respected and is an essential member of the Court.

The Court is appreciative of Cathleen's hard work, we thank her for her dedication and congratulate her on her 34-year work anniversary.









Retirement

Robert Brown– Robert will retire on July 7, 2023, after 33 years of service- 19 of those years with the City of Flagstaff. He is currently an Assistant City Attorney in the Prosecution section.

Robert received several distinguished awards including the Lifetime Achievement Award in 2019 from the Arizona Prosecuting Attorneys' Advisory Council. As a result, Robert was given the key to the City and August 10, 2019, was proclaimed as "Robert W. Brown Day." In 2021, he was awarded the Ponderosa Award for Leadership by the City Manager. In 2022, Coconino County Victim Witness awarded him the Heart of Gold award in recognition of his dedication and service to pursuing justice for victims of crime. We congratulate Robert for his long and dedicated career in public service!



7. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration of Appointment: Sustainability Commission.

STAFF RECOMMENDED ACTION:

Make two appointments to terms expiring October 2025.
Make two appointments to terms expiring October 2023.

Executive Summary:

The Sustainability Commission consists of seven citizens and is responsible for recommending and coordinating activities in concert with the City of Flagstaff Sustainability Program. To accomplish this objective, the Commission will address the social, economic, and environmental considerations of meeting the needs of current and future citizens. Among the Commission's directives are the promotion of sustainable practices in all spheres of life and educating Flagstaff citizens.

There are currently four seats available due to resignations and end of terms.

It is important to fill vacancies on Boards and Commissions quickly so as to allow the Commission to continue meeting on a regular basis.

There are seven applications on file for consideration by the Council, they are as follows:

- Priscilla Boateng (new appllcant)
- Kristen Edge (new applicant)
- Mary Ellen Metzger (new applicant)
- Dorcas Naa Aku Shika Quarshie (new applicant)
- Tina Reeser (new applicant)
- Rodger Scurlock (new applicant)
- Amy Wolkowinsky (new applicant)

In an effort to reduce exposure to personal information the commission roster, applicant roster and applications will be submitted to the City Council separately.

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember House, Vice Mayor Aslan, Councilmember Harris, and Councilmember Sweet

Financial Impact:

These are voluntary positions and there is no budgetary impact to the City of Flagstaff.

Policy Impact:

Not applicable.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Inclusive and Engaged Community - Foster community pride and civic engagement; advance social equity and social justice in Flagstaff; facilitate and foster diversity and inclusivity; and enhance community outreach and engagement opportunities.

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

1. Appoint four Commissioners: By appointing four members at this time, the Sustainability Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.
2. Postpone the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

The City's boards, commissions, and committees were created to foster public participation and input and to encourage Flagstaff citizens to take an active role in city government.

Community Involvement:

INFORM: The vacancies are posted on the City's website and individual recruitment and mention of the openings by Board members and City staff has occurred, informing others of these vacancies through word of mouth.

Attachments: Sustainability Commission Authority

CHAPTER 2-17
SUSTAINABILITY COMMISSION

SECTIONS:

2-17-001-0001 COMMISSION ESTABLISHED; ORGANIZATIONAL STRUCTURE
2-17-001-0002 PURPOSE; POWERS AND DUTIES

2-17-001-0001 COMMISSION ESTABLISHED; ORGANIZATIONAL STRUCTURE

A. Establishment of the Commission.

1. There is hereby created the Sustainability Commission (the "Commission"), which shall replace the Clean and Green Committee.

2. The membership of the Commission shall consist of seven (7) members. Members of the Commission shall be appointed by the City Council and shall represent the diverse interests and views of the community. The Commission shall be a working Commission, in which each member takes an active role in accomplishing the goals and objectives of the Commission. Members shall serve a term of three (3) years with no member appointed for more than two (2) full consecutive terms.

3. The Commission shall be responsible for electing a Chair and a Vice-Chair. The Chair shall act as public spokesperson for the Commission at public functions, shall serve as an ex officio member of all standing committees, shall appoint the Chair of all standing committees upon the advice and consent of the Commission, and shall perform other duties as required. The Vice-Chair shall act in the absence of the Chair. (Ord. 2014-28, Amended, 11/18/2014)

2-17-001-0002 PURPOSE; POWERS AND DUTIES

The purpose of this Commission shall be to continue the work initiated by the Clean and Green Committee and to further work with the City Council and the City Staff by recommending and coordinating activities as part of the Flagstaff Sustainability Program, the U.S. Mayors Climate Protection Agreement, and any future sustainability initiatives pursued by the City.

Subject to state law and the procedures prescribed herein, the Sustainability Commission shall have and may exercise the following powers, duties, and responsibilities:

A. The Commission shall work with City staff toward the development and implementation of the Flagstaff Sustainability Program. The issues addressed by this program may include, but not be limited to, the following:

1. Climate and air quality
2. Transportation
3. Energy
4. Solid waste and toxic substances
5. Water, wastewater, and stormwater
6. Sustainable building and purchasing practices
7. Sustainable economic development

B. The Commission shall work with the City staff toward the development and implementation of the U.S. Mayors Climate Protection Agreement and any future sustainability initiatives passed by the City Council.

C. The Commission shall work with the City Council in the development of initiatives linking the concepts of sustainability with economic development and affordability for the benefit of all community members.

D. The Commission shall promote the benefits of sustainable practices in all spheres of life and shall educate the public concerning such practices.

E. The Commission shall promote compliance with City ordinances concerning sustainability and environmental management.

F. The Commission shall encourage sustainable practices by individuals, groups, organizations, industrial and commercial enterprises, educational institutions, and government agencies.

(Ord. 2007-27, Amended 04/17/2007)

7. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration of Appointments: Transportation Commission.

STAFF RECOMMENDED ACTION:

Make two appointments to terms expiring July 2026.
Make one appointment to a term for a NAIPTA Representative seat expiring November 2025.

Executive Summary:

The Transportation Commission consists of seven voting members (a representative from the Flagstaff Unified School District, a representative of NAIPTA, and five citizens) and two non-voting members (City Traffic Engineer and a Police Department representative). The Transportation Commission reviews requests for changes in traffic regulations and formulates and recommends traffic-related policies and ordinances to the Council. The commission sponsors two subcommittees: the Bicycle Advisory Committee and the Pedestrian Advisory Committee, each consisting of seven voting members.

There are currently three seats available due to two expired seats and one resignation (NAIPTA Representative). It is important to fill vacancies on boards and commissions quickly so as to allow them to continue meeting on a regular basis.

There are four applications on file:

- Matt Barkley (new applicant)
- Robert Kuhn (new applicant)
- Jonathan Hansen (current commissioner)
- Josh Stone - NAIPTA Representative (new applicant)

In an effort to reduce exposure to personal information the applicant roster and applications will be submitted to the City Council separately.

COUNCIL APPOINTMENT ASSIGNMENT: Vice Mayor Aslan, Councilmember Sweet, and Councilmember Harris

Financial Impact:

These are voluntary positions and there is no budgetary impact to the City of Flagstaff.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Inclusive and Engaged Community - Foster community pride and civic engagement; advance social equity and social justice in Flagstaff; facilitate and foster diversity and inclusivity; and enhance community outreach and engagement opportunities.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1. Appoint three Commissioners: By appointing members at this time, the Transportation Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.
2. Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

The City's boards, commissions, and committees were created to foster public participation and input and to encourage Flagstaff citizens to take an active role in city government.

Community Involvement:

INFORM: The vacancies are posted on the City's website and have been made known by City staff and current commission members through word of mouth.

Attachments: Transporation Commission Authority

CHAPTER 2-12
TRANSPORTATION COMMISSION

SECTIONS:

2-12-001-0001 CITY POLICY:
2-12-001-0002 CREATION OF THE TRANSPORTATION COMMISSION AND MEMBERSHIP:
2-12-001-0003 TERMS OF OFFICE:
2-12-001-0004 MEETINGS:
2-12-001-0005 FUNCTIONS OF THE COMMISSION:
2-12-001-0006 OTHER POWERS:
2-12-001-0007 REPEALED:

2-12-001-0001 CITY POLICY:

It is the policy of the City, in the exercise of the powers vested in the City Council for the protection of the public safety and promotion of the general welfare, to promote the safety of the traveling public and to improve utilization of the public ways for all forms of transportation. (Ord. 1349, Amended, 02/19/1985; Ord. 2013-06, Amended, 09/17/2013)

2-12-001-0002 CREATION OF THE TRANSPORTATION COMMISSION AND MEMBERSHIP:

A. There is hereby created a commission to be known as the Transportation Commission.

B. The Commission shall consist of seven (7) voting members and two (2) ex officio, nonvoting members. Each voting member shall be appointed by the City Council and shall continually reside within the City during the tenure of appointment. The Commission's membership shall be as follows:

1. The seven (7) voting members of the Commission shall consist of all of the following:

    a. Five (5) at large members selected from the general public.

    b. One (1) member appointed to represent the Flagstaff Unified School District.

    c. One (1) member appointed to represent the Northern Arizona Intergovernmental Public Transportation Authority.

2. The two (2) ex officio, nonvoting members shall consist of the following:

a. The Traffic Engineer, or his or her designee.

b. The Chief of Police, or his or her designee.

C. The Commission shall annually select one (1) of its members to serve as chairperson. (Ord. 1349, Amended, 02/19/1985; Ord. 2007-21, Amended, 02/06/2007; Ord. 2010-14, Amended, 06/15/10; Ord. 2013-06, Amended, 09/17/2013)

2-12-001-0003 TERMS OF OFFICE:

Members of the Commission shall serve staggered three (3) year terms. No member may serve more than two (2) three (3) year terms.

A member's term of office shall commence with the first regular Commission meeting following his appointment and terminate with the regular Commission meeting at which his successor takes office.

A Commission member who is absent from three consecutive regular meetings may have their remaining term terminated by a vote of the City Council upon recommendation of the Commission. (Ord. 1349, Amended, 02/19/1985; Ord. 1942, Amended, 05/06/1997; Ord. 2010-14, Amended, 06/15/2010; Ord. 2013-06, Amended, 09/17/2013)

2-12-001-0004 MEETINGS:

The Commission shall meet quarterly and/or at the request of its Chairperson for the disposal of such business as may come before it.

Meetings shall be conducted in accordance with the Board and Commission Members' Rules and Operations Manual adopted by resolution of the Flagstaff City Council, and in compliance with all other local, State, and Federal laws.

A quorum shall consist of four (4) voting members of the Commission. (Ord. 1349, Amended, 02/19/1985; Ord. 2010-14, Amended, 06/15/2010; Ord. 2013-06, Amended, 09/17/2013; Ord. 2014-28, Amended, 11/18/2014; Ord. 2016-30, Amended, 07/05/2016)

2-12-001-0005 FUNCTIONS OF THE COMMISSION:

The functions of the Commission shall be:

A. To formulate and recommend policies and ordinances to the City Council governing the general operations of the City streets, alleys, sidewalks and bikeways.

B. To review periodically traffic regulation actions of the Transportation Engineering Program.

C. To promote pedestrian, bicycle, transit and driver education programs in the school systems and to disseminate traffic and safety information to the public at large.

D. To annually advise the City Council of the progress and expenditures of the City's Streets/Transportation Capital Improvements Program, funded by the transportation tax revenues approved by voters in the election of May 2000 and the City's road repair and street safety tax revenues approved by voters in the election of November 2014. To carry out this function, the Transportation Commission shall:

1. Meet annually with the City's Capital Improvements and Financial Services staff to review the progress of the Streets/Transportation Capital Improvement Program's ("CIP") planning and programming efforts;

2. Ensure there is a coordinated approach for budgeting and expending transportation sales tax revenues for all transportation modes and road repair and street safety sales tax revenues;

3. Provide input on the Streets/Transportation CIP's prioritization scoring criteria;

4. Provide a forum for public comment and input regarding the Streets/Transportation CIP;

5. Publish an annual Streets/Transportation CIP advisory report; and

6. Present the findings of said report to the City Council during a public meeting in conjunction with the annual budget process. At a minimum, the report shall discuss the previous years' income/expenditures, construction projects and planning activities.

E. To perform other duties relating to public safety within the scope of this Commission.

(Ord. 1349, Amended, 02/19/1985; Ord. 2007-21, Amended, 02/06/2007; Ord. 2010-14, Amended, 06/15/2010; Ord. 2013-06, Amended, 09/17/2013; Ord. 2016-31, Amended, 09/20/2016)

2-12-001-0006 OTHER POWERS:

A. The Commission shall have the power to appoint subcommittees for the purpose of defining problem areas of traffic and traffic safety; proposing solutions to defined problems; or for any other undertaking which will reasonably lead to safer and more efficient traffic flow in the City.

B. The City Council hereby establishes the following advisory committees to the Transportation Commission to provide advice on special traffic and transportation topics,

and delegates to the Commission the power to appoint members to these committees. No member of the Transportation Commission shall be a member of an advisory committee. The City Council retains the power to remove a member of an advisory committee for the reasons specified in the City's Board and Commission Members' Rules and Operations Manual.

1. Bicycle Advisory Committee: Seven (7) citizen members appointed for a three (3) year term. No member may serve more than two (2) three (3) year terms.

2. Pedestrian Advisory Committee: Seven (7) citizen members appointed for a three (3) year term. No member may serve more than two (2) three (3) year terms.

C. The Transportation Commission shall define the operating procedures of the advisory committees, assuring compliance with the Arizona Open Meeting Law, and the City's Board and Commission Members' Rules and Operations Manual, including, but not limited to:

1. The advisory committees shall report on their activities to the Transportation Commission at each Commission meeting.

2. The advisory committees shall investigate, consider, and make recommendations to the Transportation Commission on items assigned to them by the Commission regarding their respective areas of interest.

3. The advisory committees shall bring to the Transportation Commission items of a planning, design, or regulatory nature that come to their attention regarding the City's pedestrian and bikeway systems. (Ord. 1349, Amended, 02/19/1985; Ord. 2007-21, Amended, 02/06/2007; Ord. 2010-14, 06/15/2010; Ord. 2013-06, Amended, 09/17/2013; Ord. 2014-28, Amended, 11/18/2014)

2-12-001-0007 REPEALED:

(Ord. 2013-06, Repealed, 09/17/2013)

8. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Action on Liquor License Application: Zachariah Adam Miller, "Americana Motor Hotel," 2650 E. Route 66, Series 11 (Hotel/Motel), New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

The City Council has the option to:
1) Forward the application to the State with a recommendation for approval;
2) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A series 11 license allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

Americana Motor Hotel is a new hotel in Flagstaff. If approved, this will be the 6th active series 11 license in Flagstaff. To view surrounding liquor licenses, please visit the Active Liquor Licenses Map.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application and provided their respective reports.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a new license, consideration may be given to both the applicant's personal qualifications and the location.

The deadline for issuing a recommendation on this application is July 7, 2023.

Community Benefits and Considerations:

This business will contribute to the tax base of the community. We are not aware of any other relevant considerations.

Community Involvement:

The application was properly posted on June 13, 2023. No written protests have been received to date.

Attachments:

Letter to Applicant
Hearing Procedures
Series 11 Description
PD Memo
Zoning Memo
Map

City of Flagstaff

OFFICE OF THE CITY CLERK

6/16/2023

Zachariah Adam Miller
750 N. Saint Paul Street
#250 PMB 14783
Dallas, TX 75201

Dear Mr. Miller,

Your application for a Series 11 Liquor License for Americana Motor Hotel located 2650 E. Route 66, Flagstaff, AZ was posted on June 13, 2023. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **July 3, 2023, which is scheduled to begin at 3:00 p.m.**

It is important that you or your representative attend this Council Meeting in person or via video conference (Microsoft Teams Meeting) and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on July 3, 2023, and the application may be removed from the premises at that time.

There is an $815 application fee which needs to be received prior to the hearing date. Payment can be made online at https://www.flagstaff.az.gov/2452/E--Services under Business Licensing Payment Online Services by clicking Liquor License Request Payment, in person at the payment window, or you can send a check to my attention at 211 W. Aspen Ave., Flagstaff, AZ 86001.

If you have any questions, please feel free to call me at 928-213-2077 (office) or 928-220-5995 (cell).

Sincerely,

Stacy M. Fobar

Stacy M. Fobar
Deputy City Clerk

Enclosures

City of Flagstaff

Liquor License Application
Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.

2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.

3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.

4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.

5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.

6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.

7. The presiding officer will then close the public hearing.

8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;

2. Number and types of licenses within one mile of the proposed premises;

3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;

4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;

5. Residential and commercial population density within one mile of the proposed premises;

6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

7. Effect on vehicular traffic within one mile of the proposed premises;

8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;

10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;

11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and

12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 11 Hotel/Motel License (with Restaurant)

Non-transferable
On-sale retail privileges
Note: Terms in **BOLD CAPITALS** are defined in the glossary.

PURPOSE:
Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:
An applicant for a hotel/motel license must file a copy of its restaurant menu with the application.

A hotel/motel licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

The restaurant on the licensed premises must derive at least forty percent (40%) of its gross revenue from the sale of food.

A hotel or motel with a Series 11 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and **not** furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday and 2:00 a.m. and 10:00 a.m. on Sundays.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept delivery of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women must be posted in each room on the inside of the door **or** on a menu (or similar item).

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

FLAGSTAFF POLICE DEPARTMENT
911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001• (928) 779-3646
ADMIN FAX (928)213-3372
TDD 1-800-842-4681

Chief of Police
Dan Musselman

MEMORANDUM

Memo #23-077

TO: **Chief Musselman**

FROM: **Sgt. Kevin Sapp**

DATE: **June 15, 2023**

RE: **New Application –Series 11 Liquor License Application– Americana Motor Hotel**

On June 15, 2023, I initiated an investigation into the new application for a series 11 (Hotel/Motel) liquor license filed by Zachariah Miller (Agent) and Bashir Wali (Controlling Person). This is a new application, and the application number is 233467. It is for Americana Motor Hotel located at 2650 E Route 66, Flagstaff, AZ.

I conducted a query through local systems and public access on Zachariah and Bashir. I discovered no derogatory records. I conducted a search for current or historical liquor violations on the business and found no violations.

The applicant has completed the mandatory liquor license training. This business is not located within 300 feet of a school or church.

A representative for the business will be present for the council meeting on July 3, 2023.

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

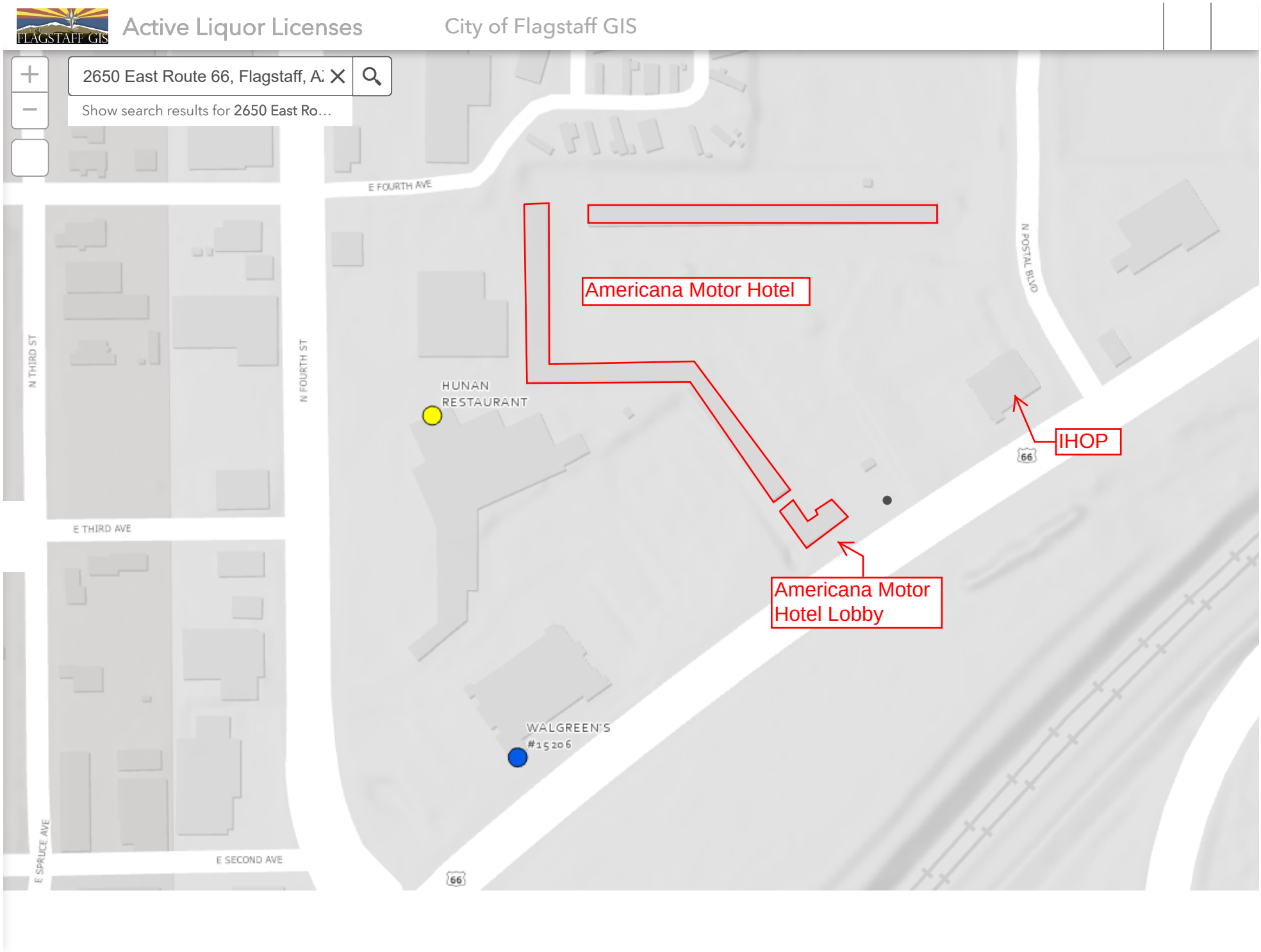
CC: Michelle McNulty, Planning Director

Date: June 12, 2023

Re: Application for Liquor License #233467
2650 E. Route 66, Flagstaff, Arizona 86001
Assessor's Parcel Number 107-14-104A
Zachariah Adam Miller on behalf of Americana Motor Hotel

This application is a request for a new Series 11 Hotel/Motel liquor license by Zachariah Adam Miller on behalf of Americana Motor Hotel. This business is located within the Highway Commercial district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.


Active Liquor Licenses
City of Flagstaff GIS
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N THIRD ST
N FOURTH ST
N POSTAL BLVD
Americana Motor Hotel
HUNAN
RESTAURANT
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Hotel Lobby
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#15206
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E SECOND AVE
E SPRUCE AVE
66

8. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Action on Liquor License Application: Troy Travis Spray, "Altitudes of Flagstaff," 2 South Beaver Street, Series 12 (restaurant), New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting at the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Altitudes of Flagstaff was recently bought by Troy Spray and is asking for a new liquor license in Flagstaff. If approved, it will be the 79th series 12 license in Flagstaff. Series 12 licenses are non-quota licenses. To view surrounding liquor licenses, please refer to the online interactive Liquor License Map.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application and provided their respective reports.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a new license, consideration may be given to both the location and the applicant's personal qualifications.

The deadline for issuing a recommendation on this application is July 7, 2023.

Community Benefits and Considerations:

This business will contribute to the tax base of the community.

Community Involvement:

The application was properly posted on June 13, 2023. No written protests have been received to date.

Attachments:

Letter to Applicant
Hearing Procedures
Series 12 Description
PD Memo
Zoning Memo
Map

City of Flagstaff

OFFICE OF THE CITY CLERK

6/16/2023

Troy Travis Spray
2 S. Beaver Street #200
Flagstaff, AZ 86001

Dear Mr. Spray,

Your application for a Series 12 Liquor License for Altitudes of Flagstaff located at 2 South Beaver St., #200, Flagstaff, AZ was posted on June 13, 2023. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **July 3, 2023, which is scheduled to begin at 3:00 p.m.**

It is important that you or your representative attend this Council Meeting in person or via video conference (Microsoft Teams Meeting) and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on July 3, 2023, and the application may be removed from the premises at that time.

There is an $815 application fee which needs to be received prior to the hearing date. Payment can be made online at https://www.flagstaff.az.gov/2452/E--Services under Business Licensing Payment Online Services by clicking Liquor License Request Payment, in person at the payment window, or you can send a check to my attention at 211 W. Aspen Ave., Flagstaff, AZ 86001.

If you have any questions, please feel free to call me at 928-213-2077 (office) or 928-220-5995 (cell).

Sincerely,

Stacy M. Fobar

Stacy M. Fobar
Deputy City Clerk

Enclosures

City of Flagstaff

Liquor License Application
Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.

2. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.

3. The presiding officer will request that the Applicant come forward to address the Council regarding the application. The applicant can give a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.

4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.

5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.

6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.

7. The presiding officer will then close the public hearing.

8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;

2. Number and types of licenses within one mile of the proposed premises;

3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;

4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;

5. Residential and commercial population density within one mile of the proposed premises;

6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

7. Effect on vehicular traffic within one mile of the proposed premises;

8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;

10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;

11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and

12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 12 Restaurant License

Non-transferable
On-sale retail privileges
Note: Terms in **BOLD CAPITALS** are defined in the glossary.

PURPOSE:
Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:
An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of $20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.

FLAGSTAFF POLICE DEPARTMENT
911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001• (928) 779-3646
ADMIN FAX (928)213-3372
TDD 1-800-842-4681

Chief of Police
Dan Musselman

MEMORANDUM

Memo #23-078

TO: **Chief Musselman**

FROM: **Sgt. Kevin Sapp**

DATE: **June 15, 2023**

RE: **New Application –Series 12 Liquor License Application– Altitudes of Flagstaff**

On June 15, 2023, I initiated an investigation into the new application for a series 12 (Restaurant) liquor license filed by Troy Spray (Agent and Controlling Person) and Karen Spray (Controlling Person). This is a new application, and the application number is 247305. It is for Altitudes of Flagstaff located at 2 South Beaver Street, Flagstaff, AZ.

I conducted a query through local systems and public access on Troy and Karen. I discovered no derogatory records. I conducted a search for current or historical liquor violations on the business and found no violations.

At the time of this memo, the applicant has not completed the mandatory liquor license training although he verbally stated it would be completed before July 3rd. This business is not located within 300 feet of a school or church.

A representative for the business will be present for the council meeting on July 3, 2023.

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

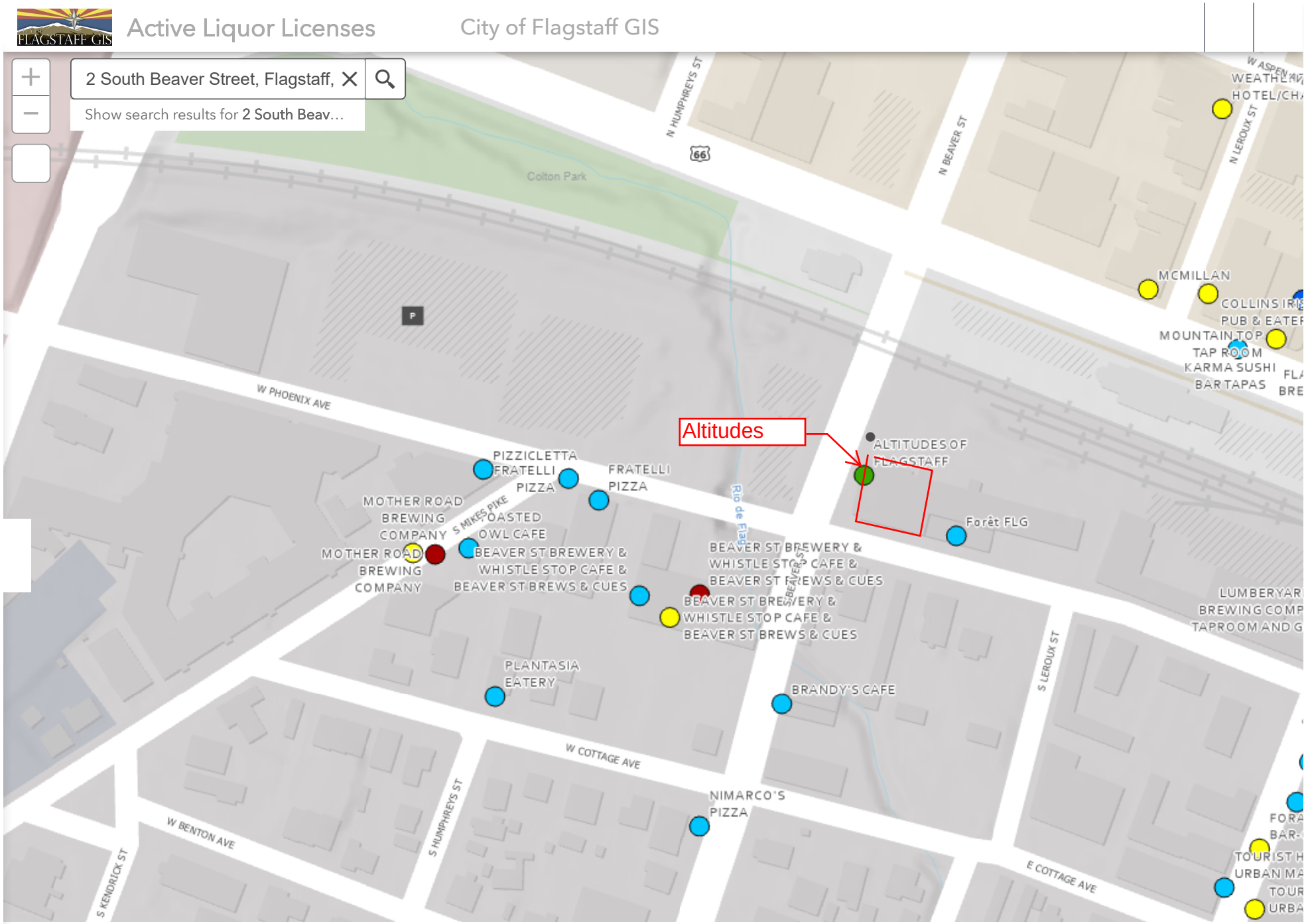
CC: Michelle McNulty, Planning Director

Date: June 12, 2023

Re: Application for Liquor License #247304
2 S. Beaver St., Flagstaff, Arizona 86001
Assessor's Parcel Number 100-44-004D
Troy Travis Spray on behalf of Altitudes of Flagstaff

This application is a request for a new Series 12 Restaurant liquor license by Troy Travis Spray on behalf of Altitudes of Flagstaff. This business is located within the Community Service district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.


Active Liquor Licenses
City of Flagstaff GIS
2 South Beaver Street, Flagstaff,
Show search results for 2 South Beav...
Altitudes
ALTITUDES OF FLAGSTAFF
Forêt FLG
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BEAVER ST BREWERY & WHISTLE STOP CAFE & BEAVER ST BREWS & CUES
PLANTASIA EATERY
BRANDY'S CAFE
NIMARCO'S PIZZA
MCMILLAN
MOUNTAIN TOP TAP ROOM
KARMA SUSHI BAR TAPAS
W PHOENIX AVE
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Rio de Flag
66
P

9. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Robert Wallace, Open Space Supervisor
Co-Submitter:	Rebecca Sayers
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Contract for Services to Conservation Legacy in a total amount of $149,850 including a Grant Award from Arizona State Parks for the Picture Canyon Restoration and Trail Work

STAFF RECOMMENDED ACTION:

1. Approve the Contract for Services to Conservation Legacy in the total amount of $149,850.00 including a Grant Award from Arizona State Parks for Picture Canyon Restoration and Trail Work; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Contract for Services to Conservation Legacy includes $103,358.01 in Grant Funds, $20,691.99 in City Funds, and $25,800 Contract In-Kind Labor. The Grant Funding is from the Arizona State Parks and Trails, Recreational Trails Program Grant (Grant Agreement No. ASPT#: 472303, #: M472303P, Fed Aid #: RTP-F-101). The Open Space Section has budgeted additional monies to fund the Contract for Services to allow the restoration and repair of trails at Picture Canyon Natural and Cultural Preserve. An extensive system of unauthorized roads and trails was mapped and photographed throughout the Preserve as part of a survey project. These abandoned roads and social routes cause erosional damage and directly impact vegetation and cultural resources. Restoration is needed to protect this National Register-listed cultural site and the plant and wildlife habitat.

Work to be performed under the Contract for Services will address delayed maintenance, including:

- Renovation and maintenance of existing trails, including repairing .78 miles and rerouting .08 miles of the Tom Moody/Don Weaver trails
- Mitigate and restore damage to areas surrounding trails through naturalizing closed roads/unauthorized trails, including ripping .61 miles of old roadbeds, and revegetating 4.27 miles or 45,000 sq ft of impacted areas
- Enforce existing rules and regulations with the installation of regulation, boundary, archeological site, and trail signs
- Provide interpretation and trail information, through interpretive signs and publications

Financial Impact:

The contract award for services is in the total amount of $149,850. This award breakdown is as follows;

$103,358.01 - Grant Funds Arizona State Parks and Trails Recreational Trails Program Grant (identified above)
$20,691.99 - City of Flagstaff, Open Space Section base budget funds
$124,050.00 - Subtotal contract expenditures

$25,800.00 - Contract in-kind labor services
$149,850.00 - Total Contract Award Services

This project is budgeted in FY24 in the Open Space Section budget in account 001-11-159-0665-5-4290 in the amount of $158,570.

Policy Impact:

Overview:

- Supports all 7 PBB Priorities
- Upholds Open Space Quadrant 2 level PBB programming
- Supports Natural Environment goals and objectives of the Carbon Neutrality Plan
- Contributes to the implementation of the Open Space and Greenways Plan
- Encourages alternative transportation options

Open Space Section Goals:

- Supports customer service objectives
- Maintains open space for the community
- Supports educational and recreational activities
- Promotes responsible tourism

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

- Environmental Stewardship:
  - Promote, protect and enhance a healthy, sustainable environment and its natural resources.
  - Engage community members through education and volunteer opportunities.
  - Increase the private sector's participation in environmental stewardship efforts.
  - Strengthen Flagstaff's resilience to climate change impacts on built, natural, economic, health, and social systems.
- Safe and Healthy Community:
  - Provide alternative responses, resources and programs, inclusive of mental health and other services.
  - Promote physical health through providing recreation opportunities, parks, open space and multiple transportation options.

Carbon Neutrality Plan

The most aligned CNP carbon neutrality plan numbers are DD-3, DD-2, and ES-2.

Carbon Neutrality Plan Strategy 1

DD-3: Encourage Flagstaff residents and visitors to walk, bike, roll and take the bus.

Carbon Neutrality Plan Strategy 2

DD-2: Create inclusive networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient for people of all ages.

Carbon Neutrality Plan Strategy 3

ES-2: Proactively engage community members on an ongoing basis.

Regional Plan
Vision: In 2030, the Flagstaff region maintains a healthy system of open lands supporting the natural environment and our quality of life through stewardship by regional stakeholders.

- Goal CC.2. Preserve, restore, and rehabilitate heritage resources to better appreciate our culture.
- Policy OS.1.4. Use open space as opportunities for non-motorized connectivity, to interact with nature, and to enjoy the views and quiet.

Has There Been Previous Council Decision on This:

- Consideration and Adoption of Resolution No. 2022-46: A resolution of the Flagstaff City Council, authorizing the execution of a grant agreement between the City of Flagstaff and Arizona State Parks and Trails that permits the City to accept the Recreational Trails Program Grant for the maintenance of Picture Canyon Preserve.
- Consideration and Adoption of Resolution No. 2020-46: A resolution adopting the Management Plan for Legally-Designated Open Space Properties.

Options and Alternatives:

1. Approve the Contract for Services with Conservation Legacy in the total amount of $149,850.00 for Picture Canyon Restoration and Trail Work; or
2. Do not approve the Contract for Services. Staff does not recommend this option as it would forego the opportunity for the City to utilize the Grant Funds for necessary restoration and trail work.

Background/History:
The City of Flagstaff's Open Space program began in 1998 as an outgrowth of the Flagstaff Area Open Space and Greenways Plan. The program exists to protect and restore Flagstaff's natural, cultural, and scenic resources to enhance recreational and educational opportunities for residents and visitors. Open Space properties managed by the program serve as a land resource, recreational destination, wildlife habitat, and transportation corridor while protecting other natural resources.

Picture Canyon Natural and Cultural Preserve is a 478-acre designated open space property on the east side of Flagstaff behind the Wildcat Wastewater Treatment Plant and Coconino County Public Works Yard. Picture Canyon features 700 petroglyphs and associated habitation and resource processing features, a waterfall fed by the Rio de Flag/reclaimed water, and an array of native plants and wildlife. Unmanaged public use of the property prior to the City's acquisition resulted in a network of unofficial, user-created roads traversing the Preserve. Many of these roads are unnecessary and lead to dead ends. Some are causing erosion, segmenting wildlife habitat, and facilitating illegal dumping and/or illegal vehicle trespass onto the property. Also, since the Preserve opened to the public numerous unauthorized routes have led to impacts on vegetation and cultural sites. Given that the City purchased this property using funding from the Arizona State Parks Growing Smarter grant, the City is required to manage it as a non-motorized property to protect the conservation values associated with the property.

Procurement and PROSE released an Invitation for Bid (IFB) to the PlanetBids platform from 3/28/2023 - 4/20/2023. Staff also posted the IFB to Arizona Daily Sun publications on April 2, 2023 and April 9, 2023. The IFB closed with only Conservation Legacy bidding on the project, however, staff determined Conservation Legacy has the necessary expertise to perform the conservation and trail maintenance services.

Key Considerations:

The Management Plan for open space provides a framework for managing the natural, ecological, historical, and recreational resources to minimize conflict and degradation, and serves as a resource to guide decision-making processes for designated open space properties.

The Plan identifies five overarching management goals for designated open space properties, which are listed below. This resolution and grant agreement directly support all the goals.

1. To maintain, restore, and enhance the natural ecosystem processes of these properties, including watershed health (including intermittent streams), forest structure, native plant communities, and rare habitat types.
2. To protect cultural resources present within these properties.
3. To maintain and protect diverse and healthy wildlife populations.
4. To provide opportunities for public use of these properties through passive recreational use, resource interpretation, education, scientific research, and other compatible activities in a manner that is consistent with the preservation of the conservation values of the site and the management goals.
5. To maintain and develop partnerships that facilitate resource management, stewardship, and conservation.

Expanded Financial Considerations:

On-going funding for maintenance and conservation are needed to keep up the Picture Canyon Natural and Cultural Preserve. This work is funded by two primary sources. Some projects are included in the Open Space base budget of $47,000. Additionally, volunteer groups donate their time to complete projects at no cost to the City. Though these means support maintenance needs, they do not cover all demands. Grant funding allows the Open Space Section to make progress toward addressing backlogged maintenance needs for trails and restoration.

Community Benefits and Considerations:

The Contract for Services and project completion will permit the continuation of the current level of service.

The Open Space program works hard to provide recreational opportunities and maintain open space but does not have the capacity to meet all needs.

- We offer the community great places to walk, bike, run, and participate in other outdoor activities.
- We are receiving the highest ever visitation. Trail counters installed at various locations at our three main regional preserves indicate that for FY 2021-22, we received **over 99,000 visitors.**
- We provide science programs (e.g., forest ecology, plants, astronomy, and wildlife) for students and visitors at multiple open space properties and in classrooms. Programming reached approximately 775 students and 382 adults for FY 2021-22.
- The Open Space Stewards program has 30 core year-round volunteers. During FY 2021-22 we also coordinated an additional 147 volunteers who provided trash clean-up, graffiti mitigation, input on projects, and trail work for our open space, contributing 1,061 hours of volunteer time.

Community Involvement:

The application for the Recreational Trails Program Grant that is funding this project was supported by:

- Arizona Watchable Wildlife Experience
- Coconino Natural Resource Conservation District
- Conservation Study Forum
- Friends of the Rio de Flag
- Picture Canyon Working Group
- Open Spaces Commission

- Friends of Flagstaff's Future

Attachments: Conservation Legacy Contract
Location Map

CONTRACT FOR SERVICES
Contract No. 2023-68

This Contract is entered into this _____ day of _____, 2023 by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and Conservation Legacy, a Colorado nonprofit corporation ("Contractor").

WHEREAS, the City has received grants from Arizona State Parks, Picture Canyon Trail Restoration Grant Project identified as: ASPT #: 472303, ADOT #: M472303P, Fed Aid #: RTP-F-101 for the Picture Canyon Trail Restoration ("Project");

WHEREAS, the City desires to receive, and Contractor is able to provide services for the Project; and

NOW THEREFORE, in consideration for the mutual promises contained herein, the Parties agree:

1. Scope of Work: Contractor shall provide the services generally described as follows:

RESTORATION, TRAIL REHABILITATION, AND TRAIL MAINTENANCE

and as more specifically described in the Scope of Work attached hereto as *Exhibit A*.

2. Compensation: Contractor shall be compensated **an amount not to exceed one hundred forty-nine thousand eight hundred fifty dollars ($149,850.00)** for work performed under the Scope of Work, attached hereto as *Exhibit A,* and defined below. Payment shall be compensation in full for all terms necessary to provide a complete Project with respect to each Bid item, purchase order, or amendment to the Project.

Compensation	***Source***
$103,358.01	Grant Funds
$20,691.99	City Funds
$124,050.00	Subtotal Contract Expenditure
25,800.00	Contract In-Kind Labor
149,850.00	Total Contract Award for Services

3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as *Exhibit B* are hereby incorporated in this Contract by reference and shall apply to performance of this Contract, except to the extent modified in *Exhibit A*.

4. Insurance: Contractor shall meet Insurance Requirements of the City as set forth in *Exhibit C*. In the event that there is a conflict between the City's Insurance Requirements and the Insurance Requirements defined in the Grant Provisions, the Grant Provisions prevail.

5. Grant Provisions: Contractor shall meet the Arizona State Parks, Picture Canyon Trail Restoration Grant Provisions of: ASPT #: 472303, ADOT #: M472303P, Fed Aid #: RTP-F-101 as set forth in *Exhibit D*.

6. Contract Term: The Contract term is for a period of three (3) years unless terminated pursuant to the Standard Terms and Conditions. This Contract will be effective as of the date signed by both parties. Performance shall commence within ten (10) days from City's issuance of the Notice to Proceed.

7. Renewal: This Contract may be renewed or extended for up to two (2) additional one (1) one-year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

8. Notice: Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:
Emily Markel
Senior Procurement Specialist
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
emarkel@flagstaffaz.gov

With a copy to:
Robert Wallace
Open Space Supervisor
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, Arizona 86001
Robert.Wallace@flagstaffaz.gov

To Contractor:
Kamillia Hoban
Arizona Conservation Corps Director
Conservation Legacy
2500 N. Rose St., Ste101
Flagstaff, AZ 86004
khoben@conservationlegacy.org

With a copy to:
Stacey Brechler-Knaggs
Grants, Contracts & Emergency Management Director
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, Arizona 86001
sknaggs@flagstaffaz.gov

(Remainder of Page Intentionally Blank)

9. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

Conservation Legacy:

_____

Print name: _____

Title: _____

CITY OF FLAGSTAFF

_____

Print name: _____

Title: _____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

EXHIBIT A

SCOPE OF WORK
Restoration, Trail Rehabilitation, and Trail Maintenance.

Project Description: An extensive system of unauthorized roads and trails was mapped and photographed throughout the Preserve These abandoned roads and unauthorized routes are identified for restoration. Coupled with restoration, trail repairs and signage installation are identified for completion.

Project objectives include:

Scope Item #1 Renovation & Maintenance of Existing Trails
Partner Match Required: $10,000

- Compaction of .5 miles of Tom Moody Trail. The contractor will provide labor, compactor, and cohesive soil mix suitable for compaction.
- Trail tread repairs. Labor to complete tread repairs, fix and install trail drainage for .78 miles of trail.
- Re-route .08 miles of existing trail segments of the Tom Moody/Don Weaver trails.
- Place cinders for resurfacing low laying/flow damaged trail areas, ~.75 miles x 4' wide. The contractor will supply cinders for resurfacing repairs.

Scope item #2 Mitigate and restore damage to areas surrounding trails
Partner Match Required $13,000

- Mitigate and restore damage to areas surrounding trails through naturalizing closed roads/unauthorized trails, including seedbed preparation with ripping .61 miles of old roadbeds/unauthorized trails, broadcast seeding and erosion control for 4.27 miles or 45,000 sq ft of impacted areas, hydroseeding for .52 acres (.61 mi of road x 7'wide), and installation of erosion control netting for 46,000 sq ft. The client will provide erosion control netting and seed mix for broadcast seeding.

Scope item #3 Installation of regulation, boundary, archaeological site, and trail signs
Partner Match Required $1,063

- The contractor will provide labor, posts, and concrete to install enforcement signs. The client will provide signs.
    - Install 6 12x12" No Motorized Vehicles, (post-installation).
    - Install 25 4x6" Protected Conservation Land signs, (attach to existing infrastructure)

Scope item #4 Install Other Trail Signs
Partner Match Required $1,737

- The contractor will provide labor to install trail signs, posts, sign framing material, welding labor, and needed concrete mix. The client will provide signs.
    - 4 12x12 Protected Cultural Site, (post installation)
    - 10 4x6 Cultural Sites, (construct self-supported posts in low profile to the ground surface to prevent visual impacts)
    - 1 12x6 Trail Directional, (post installation)
    - 1 5'x3' Picture Canyon wayfinding sign. (install using channel posts that have a breakaway feature).

- 33 12x4 ground-level restoration signs. (No groundbreaking, mount on ground level board/log).
- 1 interpretive sign installation (post installation)
- 5 kiosk grate additions (welding required)

All Project work needs to be completed within the guidelines of the Arizona State Parks Regional Trails Program Grant criteria and the identified scope areas. Project numbers: ASPT #: 472303, ADOT #: M472303P, Fed Aid #: RTP-F-101. Total Partner match required equals $25,800. The grant-approved budget for this scope work is $103,358.01.

The Contractor will be required to create two invoices, one invoice for grant-funded work and a second for partner-provided match.

City of Flagstaff Open Space Program
Picture Canyon Restoration Specifications

Project Description Area
This Project encompasses site rehabilitation and reseeding with native vegetation for the Picture Canyon Natural and Cultural Preserve's Recreational Trails Program Project (Grant Agreement No. ASPT#: 472303).

Introduction
This Project encompasses many improvements to the Picture Canyon Natural and Cultural Preserve trail system. Primarily, the Preserve has a plethora of closed roads and unauthorized trails that dissect the property. These closed roads and trails cause confusion for visitors and are the source of soil erosion, vegetation loss, and damage to cultural sites. The Project's focus will be the habitat restoration of closed roads and unauthorized routes, with a secondary focus on trail repairs and reroutes.

4.27 miles of closed roads and unauthorized trails will be addressed by blocking routes and conducting revegetation and stabilization. The contractor will evaluate conditions, block routes with vegetation and signage installations, prepare seedbeds, broadcast seed, and mulch seeding areas. Most work will be completed by hand except for larger closed roads, which will be ripped with a mechanical device (i.e., bulldozer or rototiller). Ripping is necessary to decompact soil to allow rootlets to penetrate, provide higher levels of oxygen available for plant establishment and growth, and reduce excessive runoff.

The Project also encompasses trail repairs, mitigating erosion, and rerouting two trail sections. The two reroute sections include a short trail near the Locus D petroglyph panel. Nearly all of the vegetation growing near the panel has been trampled, and the rock art panel is being graffitied. The second section includes a trail spur leading to Pithouse Overlook. This spur will be modified with switchbacks to reduce erosion damaging the terrain and cultural site and increase visitor safety.

During restoration efforts and trail maintenance, soil disturbance will be necessary. Restoration work will address the needs of approximately 46,000 square feet. Soil surface disturbance during restoration will consist of ripping soil to a depth of 6 to 12 inches. This will be accomplished by mechanical rototilling or disking for approximately .61 miles, and 3.67 miles will be completed by hand (i.e., pickaxe, shovels, rakes). The selected contractor needs familiarity with seedbed preparation and will complete the naturalization Projects during ideal timing to prevent additional disturbance.

Impact Prevention

Protection of the Project site is an important aspect of site preparation and should occur at the beginning of the construction phase. Appropriate steps include:

- During Project implementation, ensure the exclusion of weed seed from entering the site on vehicles, infill, tools, personnel, etc. Vehicles and equipment must be power washed before entering the location after every departure from the Project area.
- Material and equipment must be stored at a weed-free staging area to prevent noxious weed seed migration. If on-site, this staging area will need to be restored.
- All material/soil brought on-site must be noxious weed-free.
- Avoid operating vehicles on wet soils.
- Notify the City immediately of any changes or plans that could affect City property, including the Open Space Program (Robert.wallace@flagstaffaz.gov).

Site Preparation

Evaluation of site conditions early in the planning process and appropriate site preparation are fundamental to successful revegetation. Site preparation for this Project will involve becoming familiar with the site to help ensure efforts are effective.

Seedbed Preparation

Seedbed preparation is required before reseeding and generally consists of decompaction of the soil, adding soil amendment (if needed), and then gently firming the soil surface prior to seeding. Soil compaction is a common problem for revegetation. Seedbed preparation (tilling) is crucial before revegetating a site. Compaction can be found in naturally occurring soils with high clay content or can result from activity on the restoration area. When soil is compacted, seeds, plant roots, and rootlets cannot penetrate through the hard surface, and less oxygen is available for plant establishment and growth. Less water is available for plant establishment due to hard compacted soil surfaces, and the site may be vulnerable to excessive runoff due to less water penetration. Microorganisms may be inhibited due to both a lack of oxygen and the large pore space needed to survive.

Decompaction should occur in two steps, with special attention given to staging areas, roads, and other high-traffic areas that are severely compacted.

Step one: Soil should be ripped to a depth of 4 to 6 inches, leaving no clod over 3 inches in diameter. This can be accomplished by mechanical methods (disking, ripping, plowing, rototilling) only in designated areas, with all remaining soil preparation to be conducted by hand crews. On steeper slopes, other methods may need to be used to decompact soil to the proper depth. Slopes should only be ripped along the contour of the slope. The ground should be contoured to restore the site to approximately the original contour. Work shall not be done when the ground or topsoil is frozen or wet.

Step two: Once the final tilling is complete, gently firming of the seedbed soil should be performed prior to seeding if determined necessary by a vegetation specialist.

Plant Material Selection

Appropriate plant selection is crucial in the successful revegetation of sites. A site plan will be created by the Open Space Program. Plant selection will be based on native plant growth in the Project area.

- All seed mixtures shall be certified free of noxious weeds and shall not contain any of the species listed on the most recent 2020 Arizona State Noxious Weed List.
- All seed substitutions must be requested and approved by the City of Flagstaff, Open Space Program in consultation with a revegetation specialist.

Seeding

Once the soil has been decompacted, the seedbed has been adequately prepared, and the plant material has been selected, the site is ready for seed application. The timing of seeding is an important aspect of the revegetation process. The best times of year to seed for the Flagstaff area are just before the monsoon season (~ late June), or Fall (late October – early November). Fall is the preferred time for seeding. Late summer seedbed preparation followed by installation of the seed in the fall allows winter months for additional firming of the seedbed before spring and germination. Fall seeding benefits from winter and spring moisture and usually assures maximum soil moisture availability for establishment. Seeding should not be conducted if the soil is frozen, snow-covered, or wet (muddy).

Hydroseeding, a seeding method that uses a slurry of seed, wood fiber mulch, and water, has been demonstrated to be less effective if the seed is suspended in the solution for too long. Therefore, hydroseeding should only be used in areas that need more extensive coverage. This area has been estimated by the Open Space Program to be approximately .52 acres (.61 miles of road x 7' wide).

Broadcast seeding, which consists of spreading the seed onto the surface of the soil by hand or with a hand spreader (also known as a belly grinder) or a mechanized rotary or cyclone seeder, has been determined to be the most viable option for the Flagstaff area. Broadcast seeding is also typically necessary in areas that are inaccessible, such as rocky slopes and steeper terrain.

Broadcast seeding is best completed after the ground has been raked or harrowed. This preparation will allow for better seed/soil contact than a hard-packed surface. Broadcast seeding is less reliable than drill seeding, so it is necessary to increase the seeding rate to double or even triple the recommended rates. Seed should be raked in to a depth of ¼ to ½ inch depth. After seeding is complete, the seed should be raked or harrowed in to provide better seed to soil contact and to cover the seed with soil.

After the seed has germinated, it may be necessary to spot-seed areas that did not establish. Inaccessible small, steep, or soft seedbed areas may be broadcast seeded and harrowed or raked to cover the seed. In areas that pose challenges for revegetation, seeding rates can be up to 50 to 60 pounds per acre to assure faster establishment or to provide erosion protection.

The Open Space Program will provide a seed mix and a recommended lbs. PLS/acre.

Mulching

Mulching is the practice of applying a protective layer of material onto the soil surface of individually planted trees and shrubs or a seeded area. Mulching can be achieved through straw or rolled erosion control product (RECP) installation. Applying mulch provides many benefits such as:

- Decreases germination of many weed seeds.
- Moderates soil temperatures.
- Retains soil moisture during dry weather (i.e., decrease evaporation).
- Increases infiltration.

- Decreases erosion.
- Adds organic matter to the soil.
- Protects soil from “crusting” caused by raindrops on bare soil.
- Reduces compaction caused by heavy rains.

The type of mulch shall meet one of the following requirements.

a. Crimped straw: Straw mulch is the most widely used product because it is cost-effective, readily available, and conveniently packaged in bales. Straw mulch can be spread and crimped successfully on slopes of 4:1 or less. Steeper slopes require a different type of mulch. Straw is required to be certified free of noxious weeds or other objectionable material. Long straw is appropriate for straw mulching, but fragmented straw should be avoided. At least 50% of the straw mulch should be a minimum of 10 inches long for stability once crimped. The straw mulch can be applied by hand in small areas or by a chopper/spreader or blower in larger areas. A good rule of thumb when mulching over a seeded area is to mulch to a density where some soil is visible beneath the straw.

   The disadvantage of straw mulch is that it is highly susceptible to blowing away, so it must be anchored or crimped. The straw should be crimped into the soil to a depth of 2 to 3 inches with a crimping tool. Disks and chisels should not be used to crimp because they will cut the straw, allowing it to blow free. Because hay includes the entire plant, including seed, mulching with hay with non-native grass species should be avoided. Alternatively, native grass species of hay may be purchased.

b. Rolled erosion control products: Rolled Erosion Control Products (RECPs) include a variety of manufactured products designed to control erosion and enhance vegetation establishment and survivability, particularly on slopes and in channels. Products such as netting, open weave textiles, and a variety of erosion control blankets (ECBs) made of natural, biodegradable materials (e.g., straw, jute, coconut) can be used. Products must be certified free from noxious weeds or other objectionable material. All used products should be all-natural biodegradable, and safe for sensitive areas (no plastic components). Although RECPs can be expensive, they are often the best approach for facilitating revegetation on steep slopes (such as 3:1 or steeper). For purposes of revegetation, it is best to avoid thick straw or excelsior blankets because they can impede grass establishment. RECPs must be installed correctly to be effective, and installation must be completed according to manufacturer directions.

Post Seeding Monitoring

To determine the success of the seeding, the contractor will provide photo documentation and a brief report for the seeded areas each year over the course of the Project, through May 2025. The report should contain:

- Photograph documentation (at least one photo/area)
- Identification of reseeded bare areas where grasses did not establish
- As needed, offer recommendations to the Open Space Program regarding additional needs for restoration

Post-Construction Assignments

- Temporary sediment control will be left in place until vegetation infill is successful. Once native plant cover has been established, remove all non-natural stormwater control measures (i.e., rock trackout pad, sediment wattles, silt fence, etc.).

- Rake out tracks/signs of construction to reduce visibility at all points.
- Evaluate growth following the growing season after the seeding for the length of the Project.
- Provide an annual report of the findings to the City Open Space Program.

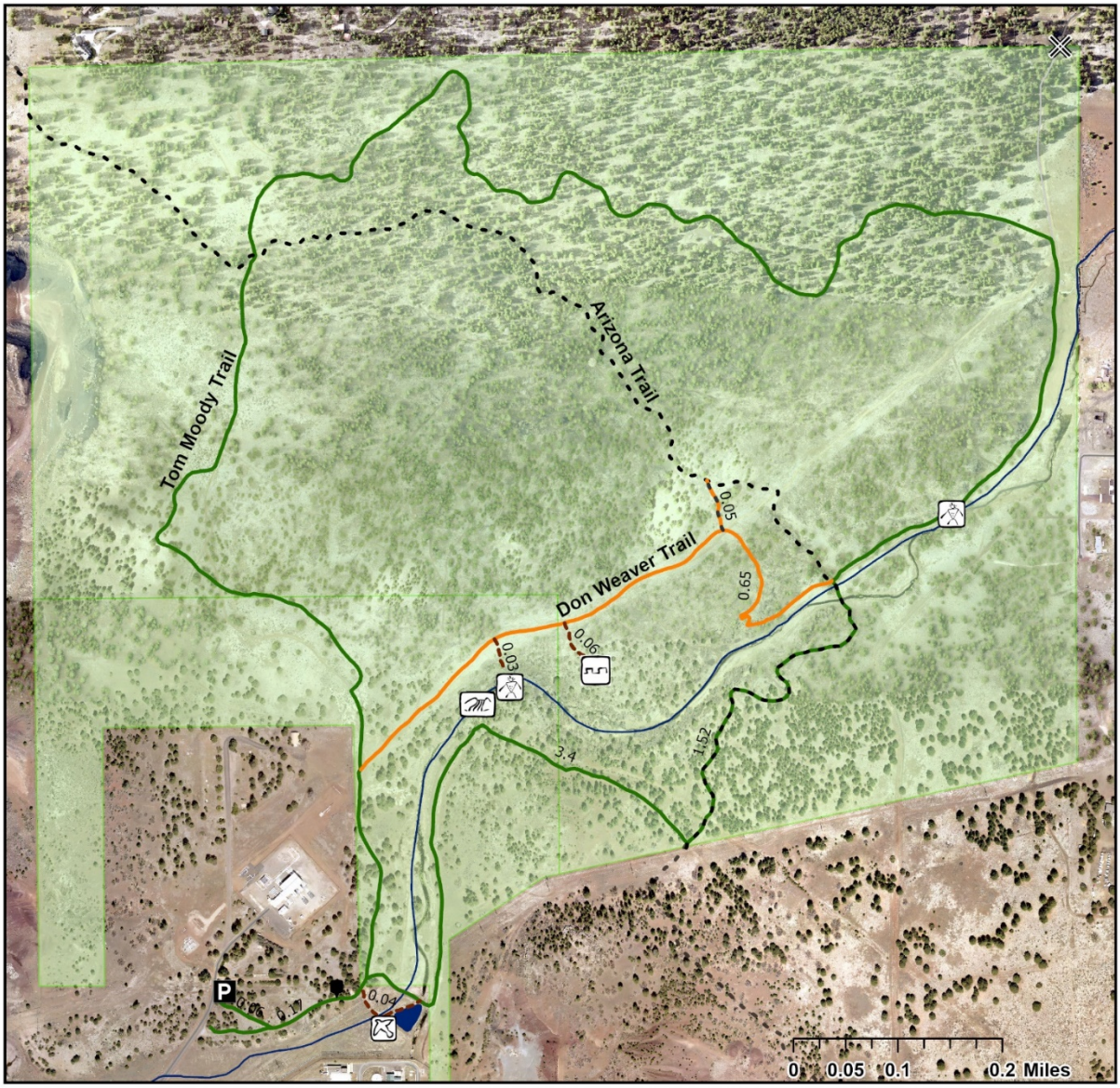
Supporting Material

Photographs of miscellaneous locations identified for restoration. See attached documents:

- AZT trail restoration photos
- Don Weaver trail restoration photos
- Tom Moody Trail Restoration photos

Trails

Picture Canyon Natural and Cultural Preserve

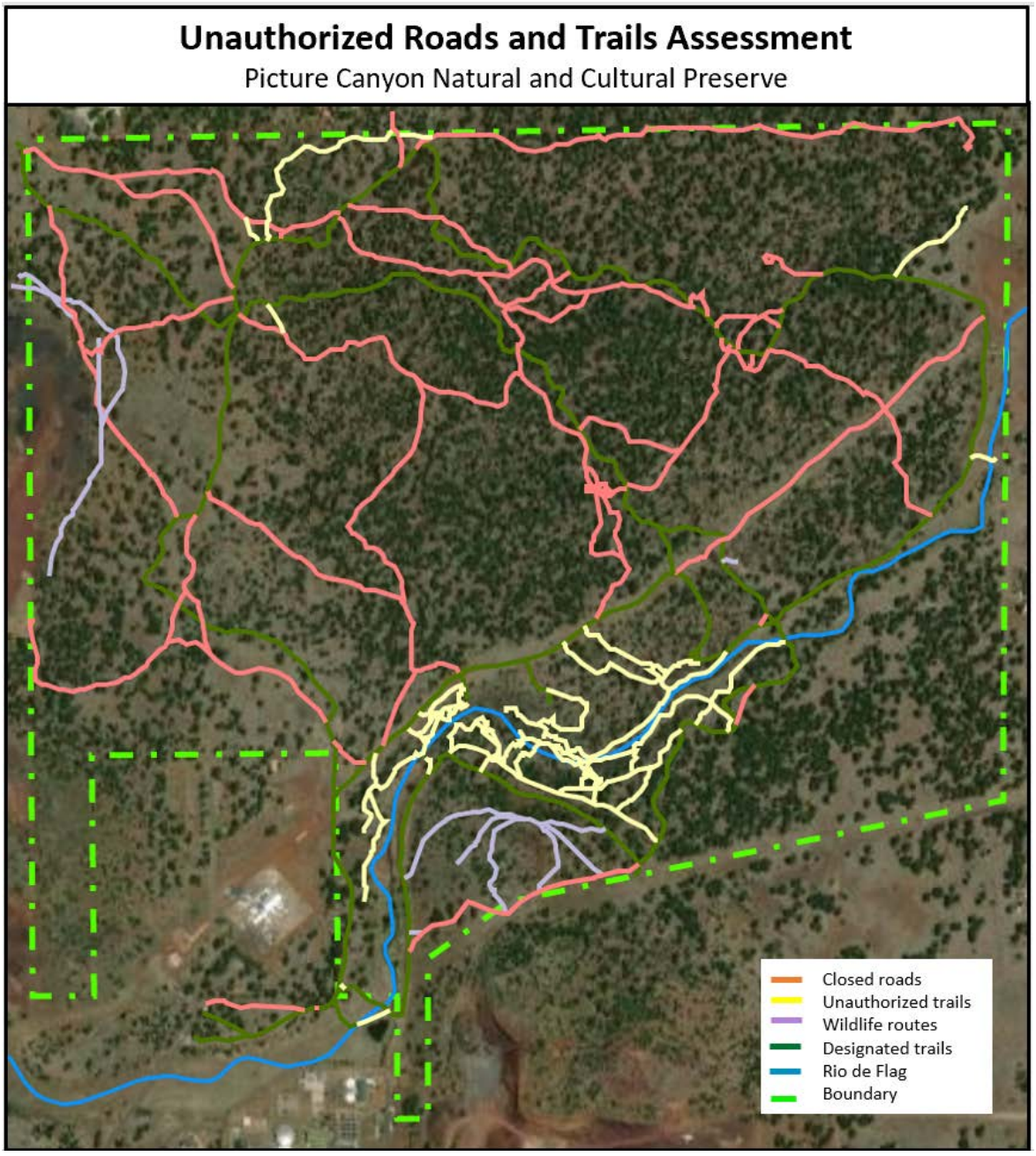


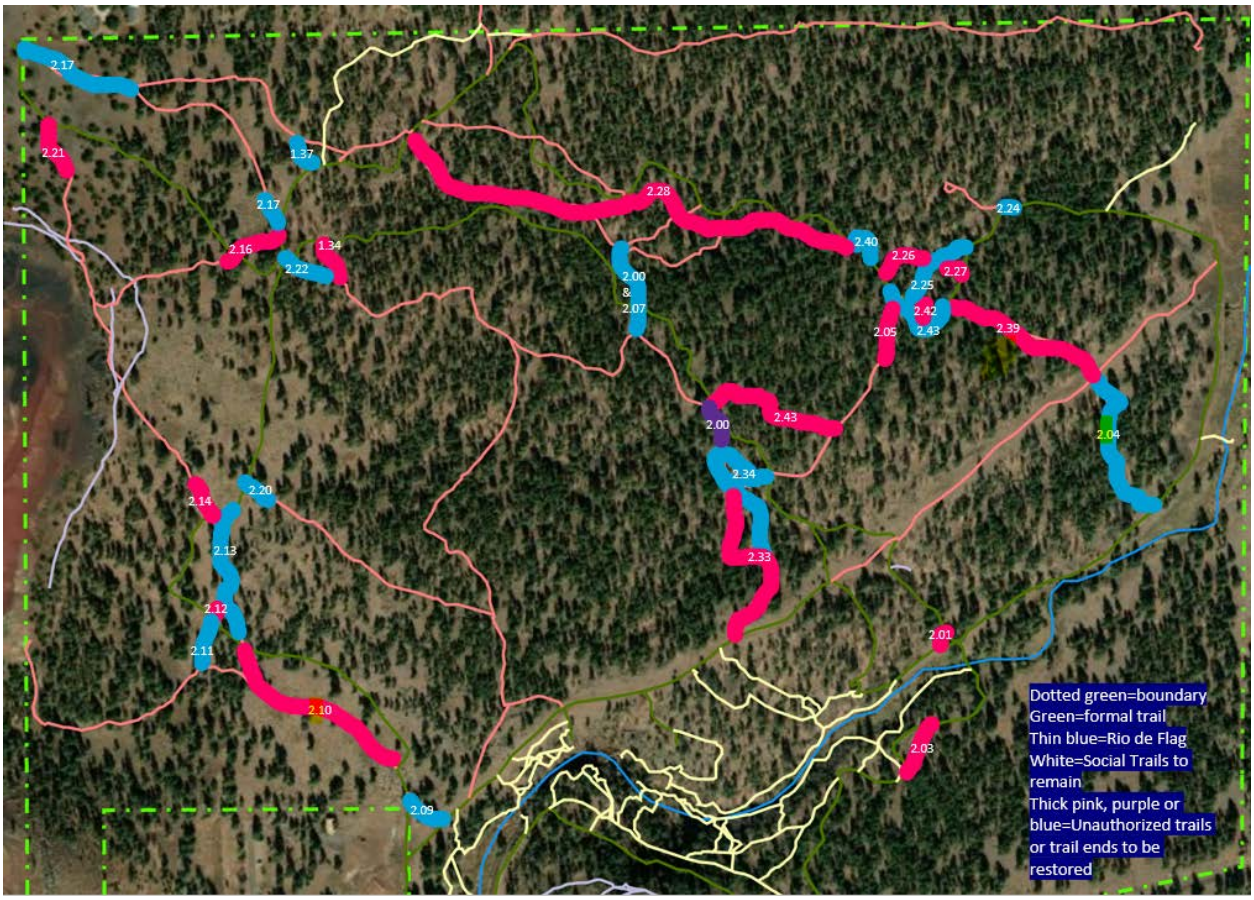
Picture Canyon Boundary
Waterfall
Gate - No Access
Parking
Petroglyphs
Pit House
Watchable Wildlife Pond
Welcome Sign
Don Weaver Trail
Points of Interest Trails
To Arizona Trail / Don Weaver Trail
Tom Moody Trail
Arizona Trail
Rio de Flag
Pond

N
W E
S

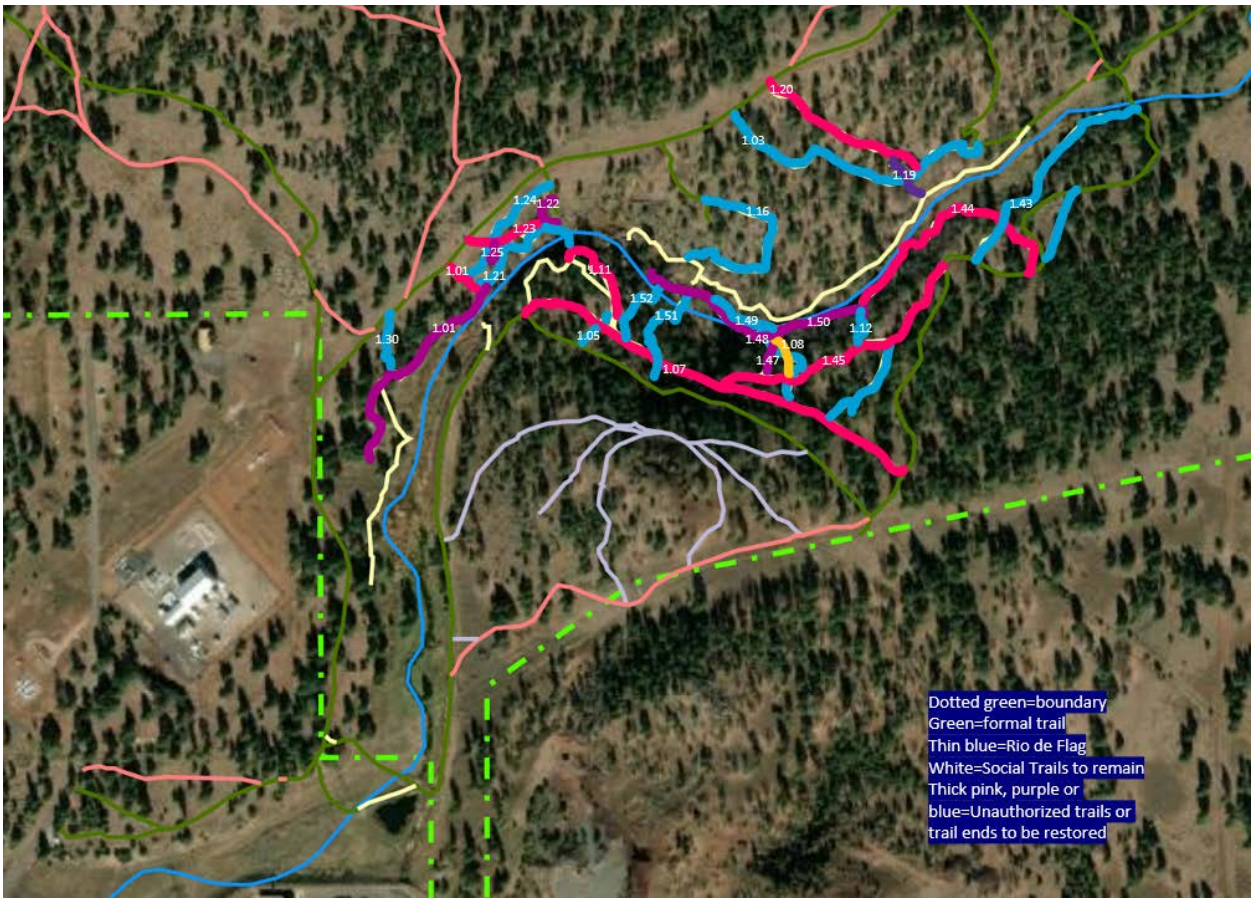
*All trail distance calculated in Miles

4/22/2020


Unauthorized Roads and Trails Assessment
Picture Canyon Natural and Cultural Preserve
Closed roads
Unauthorized trails
Wildlife routes
Designated trails
Rio de Flag
Boundary



Restoration Areas Map 1: Highlight trails identified for restoration



Restoration Areas Map 2: Highlight trails identified for restoration

City of Flagstaff Open Space Program
Picture Canyon Trail Maintenance Specifications

Project Description Area
This Project encompasses site rehabilitation and reseeding with native vegetation for the Picture Canyon Natural and Cultural Preserve's Recreational Trails Program Project (Grant Agreement No. ASPT#: 472303).

Location
All Project work will occur in the City of Flagstaff, Picture Canyon Natural and Cultural Preserve Area, 3920 N El Paso Flagstaff Rd, Flagstaff, AZ 86004. Work will be completed at various locations throughout the Preserve.

Project Activity
This Project will focus on restoring the Picture Canyon Preserve trails listed below to a meet or exceeds status based on the listed standards. Trail maintenance will include a full range of trail maintenance activities. Most work will be completed with hand crews. This work consists of restoring the original trail template, including clearing, social trail blocking, removing slough and berm, filling ruts and troughs, reshaping backslopes, excavation, reshaping trail tread, restoring draining and other trail structures, and constructing berms.

1. The following trail systems require maintenance.
    a. ~ 0.04 miles of the Don Weaver
    b. Petroglyph Overlook Trail identified for repair
    c. ~ 0.66 miles of the Tom Moody Trail miscellaneous locations identified for repair
2. The following trails will require rerouting/installation.
    a. Reroute the Don Weaver, Pithouse Overlook ~ 0.06 miles
    b. Reroute the Tom Moody, Waterbird Overlook ~ 0.02 miles.
3. Installing regulation, boundary, archaeological site, and route-finding trail signs will require installation.
    a. Approximately 56 signs located throughout the Preserve.

Project work conditions will include arduous outdoor work located on varied terrain. Terrain may include steep slopes, boulders, rocks, and shrubs, creating difficult walking conditions on the ground. Crews will only drive on established road easement unless other permissions are granted. In many areas, it will be necessary for the crews to hike to the work site as appropriate. Hot or cold temperatures, rain, and mud may be encountered during the work period. Administrative road conditions may be primitive and difficult to travel. If road condition deteriorates due to wet weather, no vehicle access will be permitted, and the Project may be postponed until conditions improve.

The Contractor will administer and oversee implementation of all work and all actions of its personnel and subcontractors. The Contractor will be responsible for ensuring appropriate transport of its employees to and from work sites. In order to allow the City of Flagstaff to effectively respond to open space user and public comments about work ongoing in the Project area, the Contractor will ensure its personnel and/or subcontractors wear identifiable uniforms while working in areas open to the public. It is likely there will be City of Flagstaff personnel, volunteers, and/or partners working in/around this same area while the contractors are on-site.

Specific guidance for each element of the Trail Rehabilitation, Maintenance, and Repair work is as follows:

1. **Slough and Berm Removal and Excess Material.** Use suitable slough and berm material within the trailway to restore the trailbed to eighteen (18.00) inches in width. Place all unsuitable and excess material beyond the downslope edge of the trailbed and uniformly spread to a depth not exceeding four (4.00) inches and so as not to obstruct drainage or interfere with the drainage of outsloped tread. Remove berm when daylight can be obtained within a distance of five (5.00) feet from the outslope edge of finished tread.

2. **Rock and Root Removal.** Uniformly scatter the removed rocks and roots below the trailway and distribute to ensure no blockage of watercourses or creation of a windrow. Fill holes with suitable material and compact.

3. **Reshaping and Finishing Trailbed and Backslopes.** Provide a firm and uniformly finished trailbed in accordance with cross-sections that shed water.

4. **Clearing Limits**. Power saws will be permitted. Clear to the dimensions six (6.00) feet wide and ten (10.00) feet high or twelve (12.00) inches beyond the fill and backslope catch points, whichever is greater. Remove and dispose of trees, logs, limbs, branches, brush, herbaceous plants, and other vegetation within the clearing limits. Except as provided above, cut all limbs and branches more than one-half inch in diameter that extend into the clearing limits. Cut limbs flush with the tree trunks or stems or cut at the ground surface. Fall and limb designated trees. When felling, cutting, or trimming, do not cause bark damage to standing timber. Remove and dispose of trees with major roots exposed by construction that are rendered unstable. Cut and remove all logs that extend across or into the clearing limits. The portions of cut logs that remain on the upper side of the trail shall be either firmly anchored to prevent sliding or rolling onto the trailway or moved across the trail to the lower side and scattered outside the clearing limits. Fell all trees over four (4.00) inches in diameter that are leaning into the clearing limits and that are within ten (10.00) feet above the trailbed. Stump height of leaning trees that are cut outside the clearing limits shall not exceed twelve (12.00) inches as measured on the uphill side of the stump. Disposal and payment for the leaning trees described above will be the same as for down logs and trees. Remove roots and stumps from trees within the trailway that have been uprooted.

5. **Rerouting** the trail around windfalls, uprooted trees, and other obstacles will not be permitted. Ramp or reroute sections of the trail tread that have been damaged by uprooted stumps as necessary to provide safe passage on the trail. Remove sticks or wood chunks exceeding two (2.00) inches in diameter and twelve (12.00) inches in length that have fallen onto the trailbed. Scatter the down trees on the lower side of the trailway outside the clearing limits. Do not place such materials in stream channels drainage ways, ditches, culvert catch basins or other locations where they would prevent the free flow of water away from the trailbed.

7. **Climbing Turn Maintenance.** Maintenance of climbing turns, including excavation, furnishing, hauling, and placing rock and aggregate, compacting aggregate surfacing, and associated barriers, ditches, retaining walls, and approach sections to bring the climbing turn up to good condition.

8. **Drainage.** Restore drainage dips and ditches to reestablish drainage as removing obstructions such as rocks, roots, and sticks to make ditches and culverts free draining.

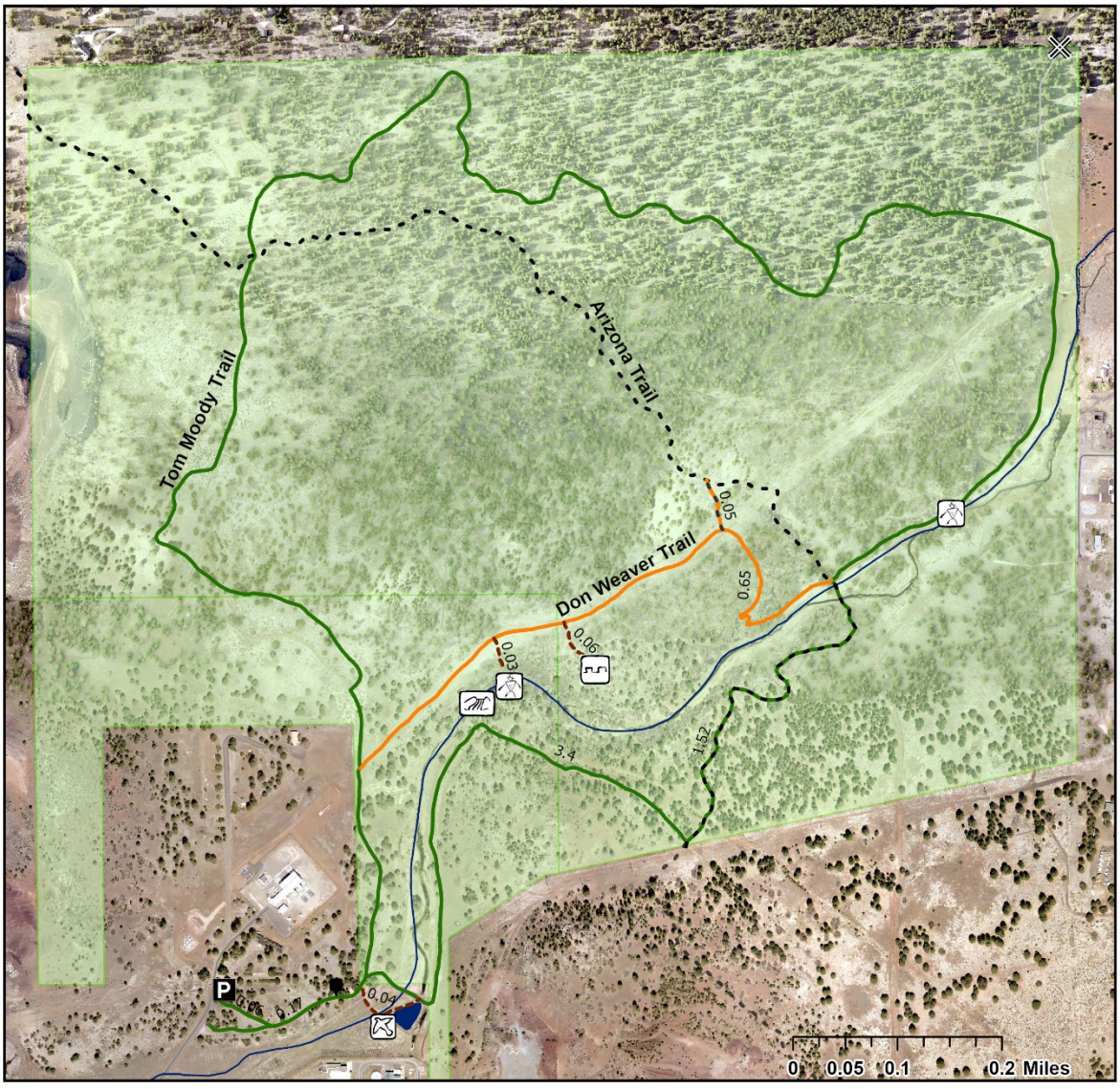
I 0. **Drainage Maintenance.** Where trail drainage facilities have been plugged and the water has been diverted from the intended channel, remove the debris causing the diversion and return the drainage to the channel. Divert water off and away from the trailbed. If washing or ponding of water has been or is occurring, dig a shallow ditch sloped two (2.00) percent to five (5.00) percent to the downstream side of the trail and three (3.00) inches minimum depth and twelve (12.00) inches minimum width across the trail at the point where water enters the trail. Clean ditches to permit the free flow of water into culverts and away from the trail. Scatter all unusable or unneeded material that is cleared from the drainage structures three (3.00) feet or more beyond and below the trail or drainage facility and out of water courses. Clean the upgrade side of all existing waterbars and maintain them. Use and compact suitable material removed from the upgrade side of all waterbars to bring the trail tread flush with the top of those waterbars on the downgrade side. Remove all debris from the lead-off area of all waterbars that restricts the free flow of water away from the trail. Firmly embed replacement rocks for rock waterbars into the trailbed and fit the rocks together.

Supporting Material

- Trail Photos Class Examples
- Don Weaver-Petroglyph Overlook re-routing photos
- Tom Moody Trail Repairs

Trails

Picture Canyon Natural and Cultural Preserve



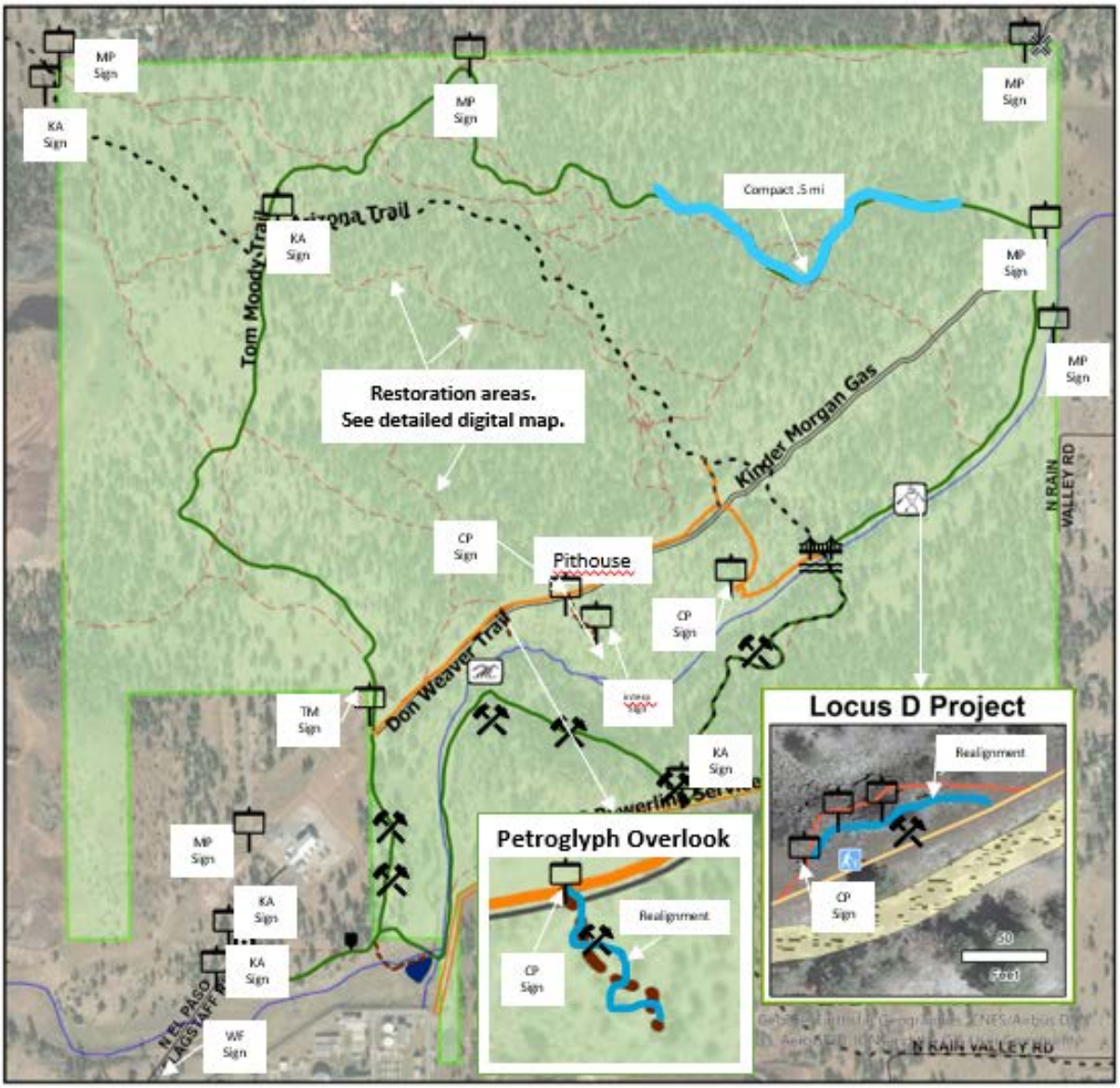
Picture Canyon Boundary
Waterfall
Gate - No Access
Parking
Petroglyphs
Pit House
Watchable Wildlife Pond
Welcome Sign
Don Weaver Trail
Points of Interest Trails
To Arizona Trail / Don Weaver Trail
Tom Moody Trail
Arizona Trail
Rio de Flag
Pond

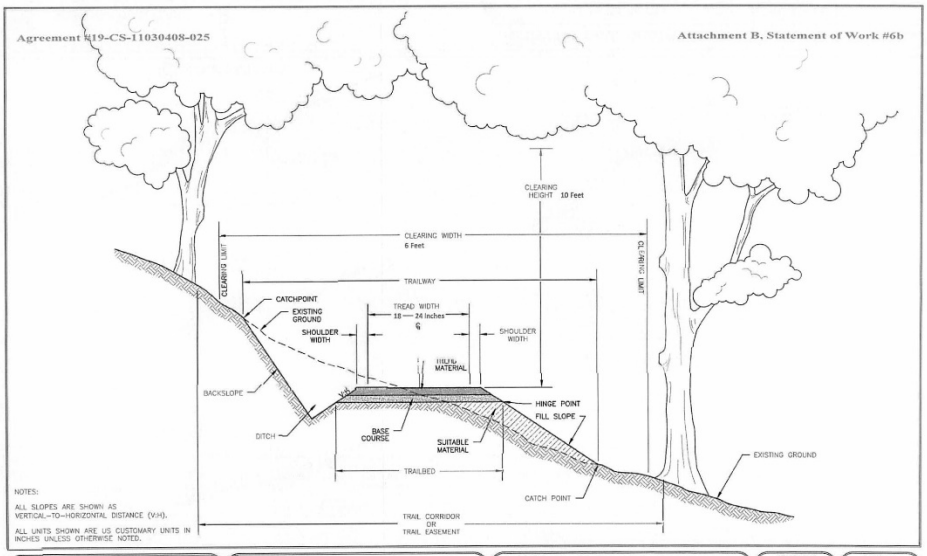
N
W E
S

*All trail distance calculated in Miles

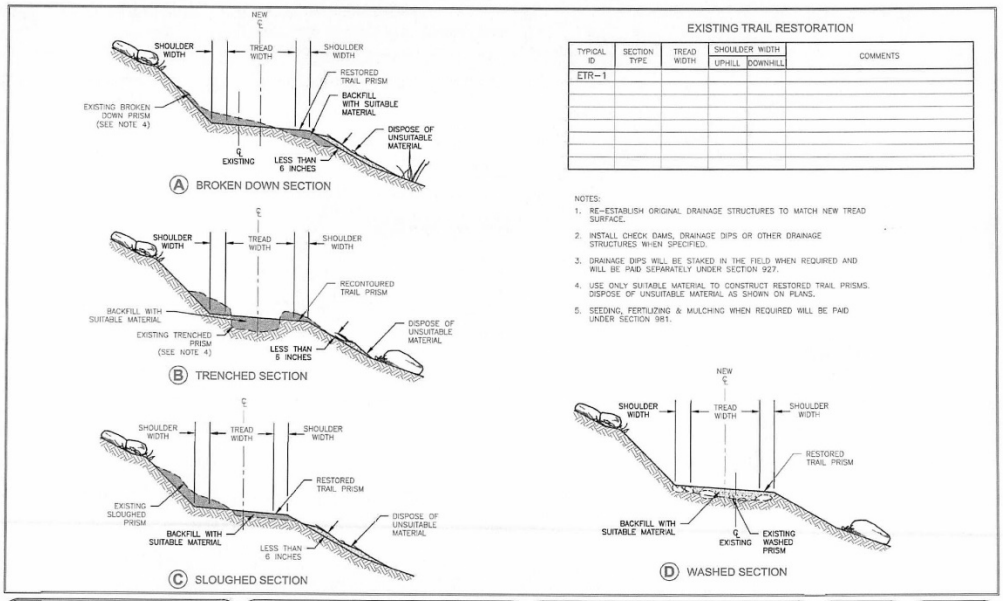
4/22/2020

Site Plan Map – Picture Canyon Restoration & Repair





U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE STANDARD TRAIL PLAN	PROJECT NAME & LOCATION: Statement of Work #6b: Forest System Trail Restoration Project	DRAWING NAME: STANDARD TRAIL TERMS	REVISION DATE: 09/16/2019	DRAWING NO.: STD_910-01
		SECTION: 910 - TRAILWAY TYPICAL ID: STT	NOT TO SCALE	SHEET OF



EXISTING TRAIL RESTORATION

TYPICAL ID	SECTION TYPE	TREAD WIDTH	SHOULDER WIDTH UPHILL	SHOULDER WIDTH DOWNHILL	COMMENTS
ETR—1					

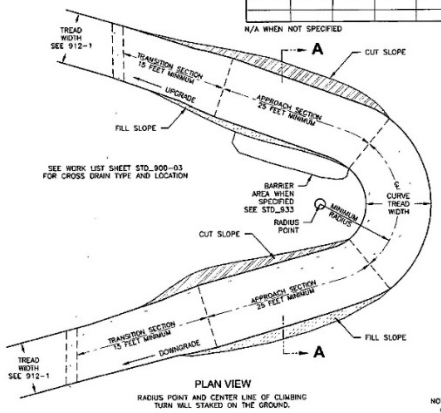
NOTES:
1. RE-ESTABLISH ORIGINAL DRAINAGE STRUCTURES TO MATCH NEW TREAD SURFACE.
2. INSTALL CHECK DAMS, DRAINAGE DIPS OR OTHER DRAINAGE STRUCTURES WHEN SPECIFIED.
3. DRAINAGE DIPS WILL BE STAKED IN THE FIELD WHEN REQUIRED AND WILL BE PAID SEPARATELY UNDER SECTION 927.
4. USE ONLY SUITABLE MATERIAL TO CONSTRUCT RESTORED TRAIL PRISMS. DISPOSE OF UNSUITABLE MATERIAL AS SHOWN ON PLANS.
5. SEEDING, FERTILIZING & MULCHING WHEN REQUIRED WILL BE PAID UNDER SECTION 981.

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE STANDARD TRAIL PLAN	PROJECT NAME & LOCATION	DRAWING NAME: EXISTING TRAIL RESTORATION	REVISION DATE: XX/XX/XX	DRAWING NO.: STD_911-30-01
		SECTION: 911 - TREAD AND PRISM TYPICAL ID: ETR	NO SCALE	SHEET OF

CLIMBING TURN SECTIONS

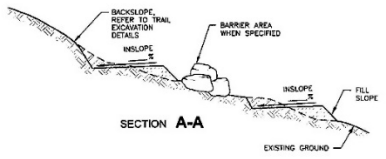
TYPICAL ID	MINIMUM RADIUS	CURVE TREAD WIDTH	BARRIER TYPE	COMMENTS
CTN-1				

N/A WHEN NOT SPECIFIED



PLAN VIEW

RADIUS POINT AND CENTER LINE OF CLIMBING TURN WALL STAKED ON THE GROUND.



SECTION A-A

NOTE:
CONSTRUCT CONSTANT GRADE THROUGH BOTH APPROACH SECTIONS.

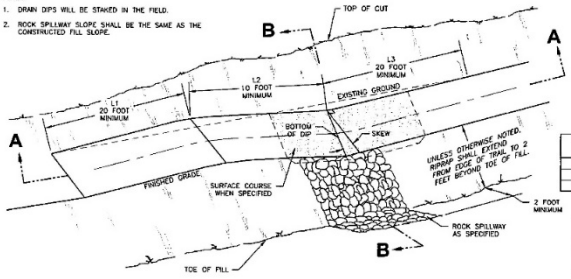
U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE	PROJECT NAME & LOCATION	DRAWING NAME	REVISION DATE	DRAWING NO.
STANDARD TRAIL PLAN		CLIMBING TURN	XX/XX/XX	STD_914-01
		SECTION: 914 - CLIMBING TURN / TYPICAL ID: CTN	NO SCALE	SHEET / OF

DRAIN DIP SECTION

TYPICAL ID	DRAIN DIP TYPE	GEOTEXTILE TYPE	SKEW	SURFACE COURSE TYPE	SURFACE COURSE DEPTH	ROCK SPILLWAY****	COMMENTS
DD1-1	DD	G		S			

N/A WHEN NOT APPLICABLE
****FOR ROCK SPILLWAY SEE SHEET STD_923-10-01

NOTES:
1. DRAIN DIPS WILL BE STAKED IN THE FIELD.
2. ROCK SPILLWAY SLOPE SHALL BE THE SAME AS THE CONSTRUCTED FILL SLOPE.



GEOTEXTILE TYPE

TYPE	MATERIAL	COMMENTS
G1	NON-WOVEN	
G2	WOVEN	
G3		

SURFACE COURSE MATERIAL TYPE

TYPE	MATERIAL	GRADATION	COMMENTS
S1	PITRUN		
S2	AGGREGATE		
S3			

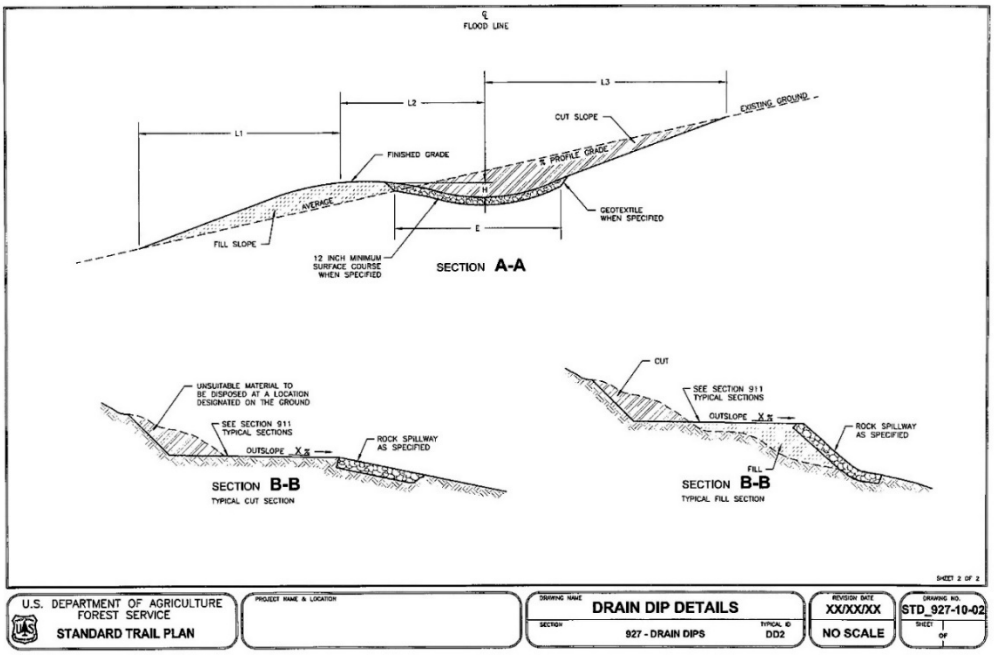
DRAIN DIP CONSTRUCTION DIMENSIONS

DRAIN DIP TYPE	% PROFILE GRADE	L1	L2	L3	(H)	(E)
DD1	0 TO 4					
DD2	5 TO 6					
DD3	7 TO 8					
DD4	9 TO 10					
DD5						

OVER 10% NOT RECOMMENDED
H = ℄ OF TREAD

SHEET 1 OF 2

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE	PROJECT NAME & LOCATION	DRAWING NAME	REVISION DATE	DRAWING NO.
STANDARD TRAIL PLAN		DRAIN DIP	XX/XX/XX	STD_927-10-01
		SECTION: 927 - DRAIN DIPS / TYPICAL ID: DD1	NO SCALE	SHEET / OF



Trail Class

Trail Classes are general categories reflecting trail development scale, arranged along a continuum. The Trail Class identified prescribes the development scale, representing its intended design and management standards. Local deviations from any Trail Class descriptor may be established based on trail-specific conditions, topography, or other factors, provided that the deviations do not undermine the general intent of the applicable Trail Class. Apply the Trail Class 3 for the management intent for the trail or trail segment, which may or may not reflect the current condition of the trail.

Trail Attributes	Trail Class 3 Developed
Tread & Traffic Flow	Tread continuous and obvious Single lane, with allowances constructed for passing where required by traffic volumes in areas with no reasonable passing opportunities available Native or imported materials
Obstacles	Obstacles may be common, but not substantial or intended to provide challenge Vegetation cleared outside of trailway
Constructed Features & Trail Elements	Structures may be common and substantial; constructed of imported or native materials Natural or constructed fords Bridges as needed for resource protection and appropriate access

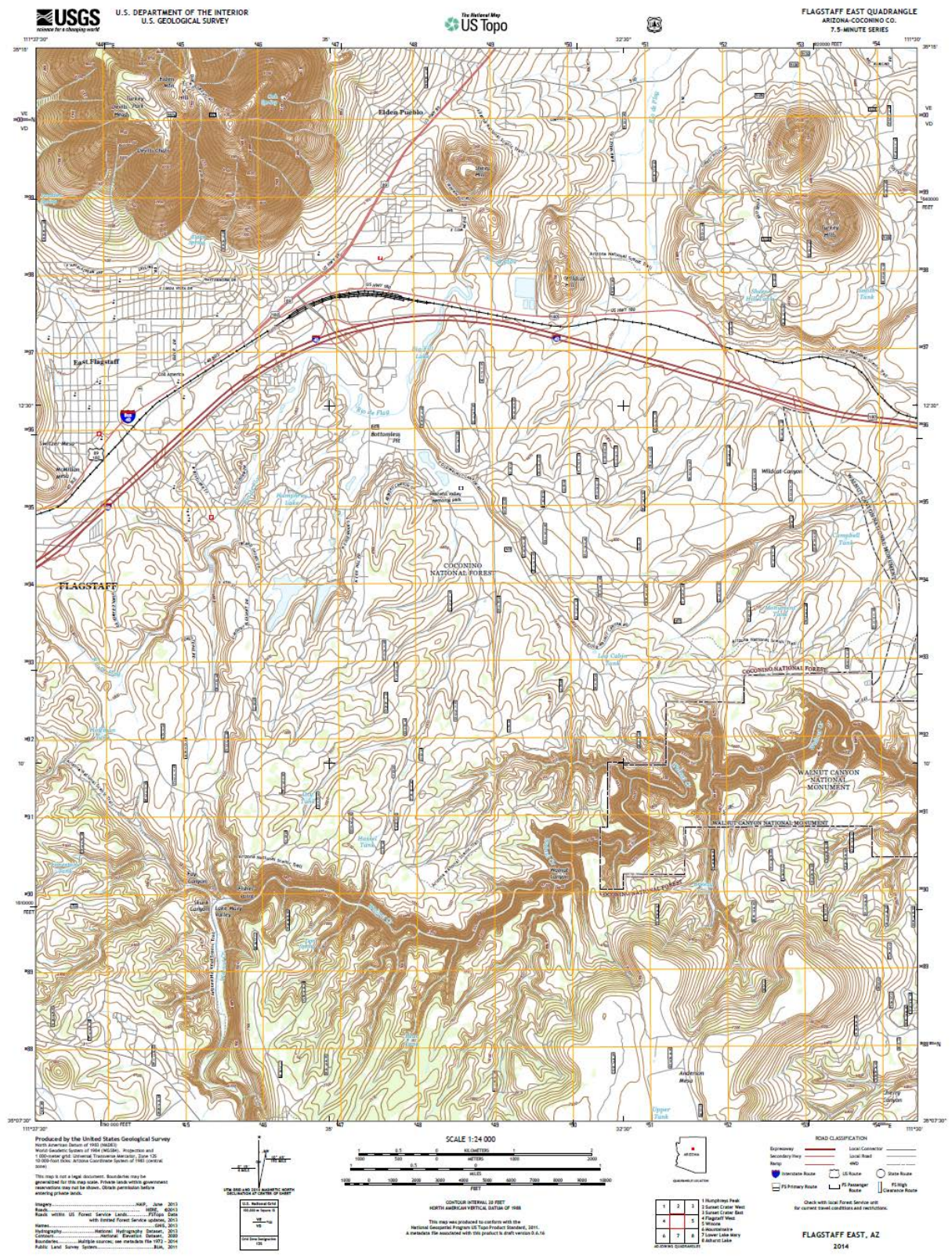
Signs	Route identification signing at junctions and as needed for user reassurance Route markers as needed for user reassurance Regulatory and resource protection signing may be common Destination signing likely outside of wilderness; generally not present in wilderness Information and interpretive signs may be present outside of wilderness
Typical Recreation Environs & Experience	Natural, primarily unmodified ROS: Typically Primitive to Roaded Natural WROS: Typically Semi- Primitive to Transition

Trail Design Parameters

Hiker/Pedestrian

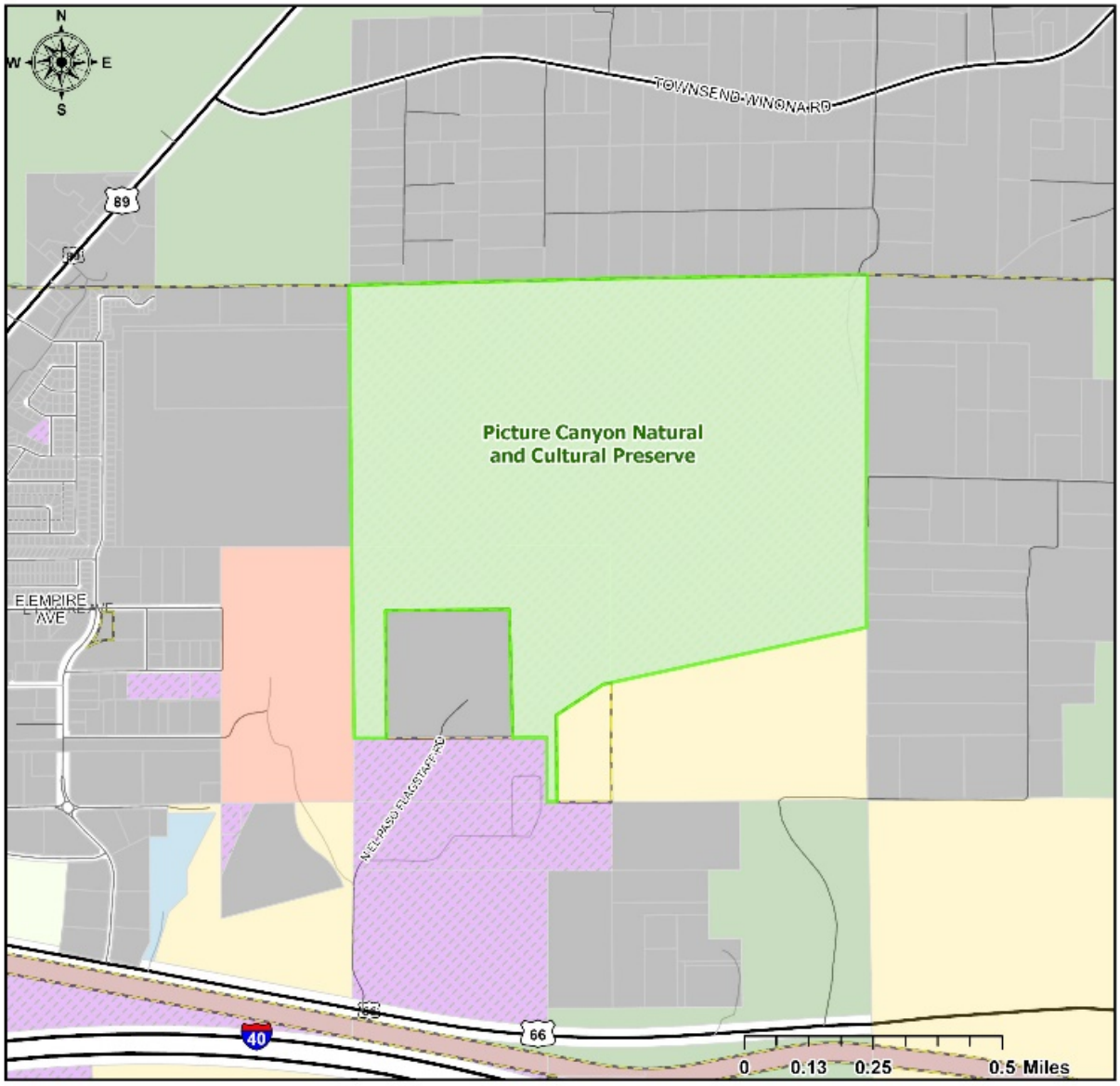
Design Parameters are technical guidelines for the survey, design, construction, maintenance, and assessment of trails, based on their Designed Use and Trail Class and consistent with their management intent. Local deviations from any Design Parameter may be established based on trail-specific conditions, topography, or other factors, provided that the deviations are consistent with the general intent of the applicable Trail Class 3.

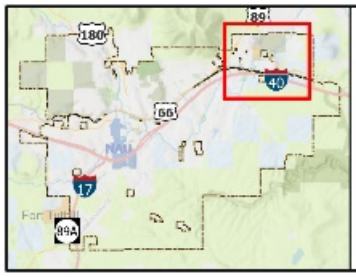
Designed Use HIKER/PEDESTRIAN		**Trail Class 3**
Design Tread Width	Non-wilderness (Single Lane)	18” - 36”
Design Surface	Type	Native, with some onsite borrow or imported material where needed for stabilization and occasional grading Intermittently rough
	Protrusions	Less than or equal to 3”. May be common, not continuous
	Obstacle (Maximum Height)	10”
Design Grade	Target Grade	3% - 12%
	Short Pitch Maximum	25%
	Maximum Pitch Density	10% - 20% of trail
Design Cross Slope	Target Cross Slope	5% - 10%
	Maximum Cross Slope	15%
Design Clearing	Height	7’ - 8’
	Width	36” – 60”
	Shoulder Clearance	12” – 18”
Design Turn	Radius	3’ – 6’


USGS
science for a changing world
U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
The National Map
US Topo
FLAGSTAFF EAST QUADRANGLE
ARIZONA-COCONINO CO.
7.5-MINUTE SERIES
Elden Pueblo
East Flagstaff
FLAGSTAFF
COCONINO NATIONAL FOREST
WALNUT CANYON NATIONAL MONUMENT
Produced by the United States Geological Survey
SCALE 1:24 000
CONTOUR INTERVAL 20 FEET
NORTH AMERICAN VERTICAL DATUM OF 1988
ROAD CLASSIFICATION
FLAGSTAFF EAST, AZ
2014

Overview

Picture Canyon Natural and Cultural Preserve





Picture Canyon Boundary
City Boundary
ADOT
BNSF
City of Flagstaff Management
Coconino County
Coconino National Forest
Private Ownership
State Trust
State of Arizona

4/22/2020

Bid Schedule

Contractor Proposal (AZCC)				Agreed Upon Award
6 weeks	crew Unauthorized Trail		33,600	4 weeks
6 weeks	crew seeding and bed prep		42,000	5 weeks
6 weeks	4 Rotos (430/week/roto)		6,450	3 rotos for 5 weeks
100 bales of straw	$12 each		0	COF to purchase
Hydro seeding	5 acres		0	cancel
			82,050	
6 weeks	Trails with cinders		25,200	3 week
100 tons of cinders	$14 / ton		0	COF to purchase
			25,200	
2 weeks	sign installation		16,800.00	2 weeks
posts and supplies			0	COF to purchase
			16,800	
Cost:			124,050	Contributing additional $20,691.99 OS base budget funds

EXHIBIT B

STANDARD TERMS AND CONDITIONS

(Last Updated January 19, 2023)

*The term “Contractor” may substitute for the term “vendors,” “consultants,” or “firms,” depending on the purpose of the underlying Contract.

IN GENERAL

1. **PARTIES:** The City of Flagstaff (“City”) and the contractor identified in the Contract (“Contractor”) may be referred to individually as “Party” or collectively as “Parties”.

2. **NOTICE TO PROCEED:** Contractor shall not commence performance until after the City has issued a Notice to Proceed.

3. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract and provide copies to City upon request.

4. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of the Contract.

5. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, the Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

6. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

7. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

8. **QUALITY:** Contractor warrants that all materials supplied under the Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials and will be safe and appropriate for use as normally used. The City’s inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

9. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

10. **MANUFACTURER’S WARRANTIES:** Contractor shall deliver all Manufacturer’s Warranties to the City upon the City’s acceptance of the materials.

11. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

12. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

13. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

14. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor may not substitute nonconforming materials and/or services. Delivery of nonconforming materials and/or services, or a default of any nature, shall constitute a breach of the Contract as a whole.

15. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

16. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens, other than the security interest held by Contractor, until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

17. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

18. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number and dates when goods had been shipped or work performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

19. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, the City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

20. TAXES: Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of the Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line-item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

21. FEDERAL EXCISE TAXES: The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

22. FUEL CHARGES: Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by the City.

23. DISCOUNTS: If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by the City.

24. AMOUNTS DUE TO THE CITY: Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to the City or fees and charges owed to the City under the Contract.

25. OFAC: No payments may be made to any person in violation of Office of Foreign Assets Control regulations. 31 C.F.R. Part 501.

SERVICES

26. INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

27. CONTROL: Contractor shall be responsible for the control of the work.

28. WORK SITE: Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

29. SAFEGUARDING PROPERTY: Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.

30. QUALITY: All work shall be of good quality and free of defects, performed in a diligent and professional manner.

31. ACCEPTANCE: If the City rejects Contractor's work due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the

deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

32. WARRANTY: Contractor warrants all work for a period of one year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one year warranty is in addition to and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

33. RECORDS: The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five years after completion of the Contract.

34. RIGHT TO INSPECT BUSINESS: The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.

35. PUBLIC RECORDS: The Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law. A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

36. CONTRACT ADMINISTRATION: Contractor will be required to participate in the City's contract administration process. Contractor will be closely monitored for Contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION

37. GENERAL INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense, arising out of the acts, errors, or omissions of Contractor, its officers, agents, employees, and subcontractors, in performing or failing to perform the responsibilities identified in the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects, and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

38. INTELLECTUAL PROPERTY INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of the alleged infringement of any patent, trademark or copyright or other proprietary rights of any third-parties arising out of Contract performance

or use by the City of materials furnished or work performed under the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

39. NETWORK SECURITY AND PRIVACY LIABILITY: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from an against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

40. PRICE INCREASES: Except as expressly provided for in the Contract, no price increases will be approved.

41. COMPLETE AGREEMENT: The Contract is intended to be the complete and final agreement of the Parties.

42. AMENDMENTS: The Contract may be amended by written agreement of the Parties.

43. SEVERABILITY: If any term or provision of the Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted and the remainder of the Contract shall remain in full force and effect.

44. NO WAIVER: Both Parties have the right insist upon strict performance of the Contract, and the prior failure of a Party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

45. ASSIGNMENT: Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. Any

assignment without such consent shall be null and void. No assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to the City. The Purchasing Director shall have authority to consent to an assignment on behalf of the City.

46. BINDING EFFECT: The Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

47. SUBCONTRACTING: Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. The City reserves the right to withhold consent if the subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

48. NONDISCRIMINATION: Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor whose business is located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02, *Civil Rights*, which also prohibits discrimination based on sexual orientation, or gender identity or expression.

49. DRUG FREE WORKPLACE: The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.

50. IMMIGRATION LAWS: Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and federal immigration laws and regulations shall constitute a material breach of the Contract and shall subject Contractor to penalties up to and including termination of the Contract. The City may, at its sole discretion, conduct random verification of the employment records of the employees of the Contractor and any subcontractors to ensure compliance with all state and federal immigration laws and regulations. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contract if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

51. TERMINATION FOR DEFAULT: Prior to terminating the Contract for a material breach, the non-defaulting Party shall give the defaulting Party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting Party in writing. In the event the breach is not timely cured,

or in the event of a series of repeated breaches the non-defaulting Party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the Parties may execute all remedies available at law in addition to the Contract remedies provided for herein.

52. CITY REMEDIES: In the event of Contractor's default, the City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. The City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

53. CONTRACTOR REMEDIES: In the event of the City's default, Contractor may pursue all remedies available at law, except as provided for herein.

54. TERMINATION FOR NONAPPROPRIATION OF FUNDS: The City may terminate all or a portion of the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. TERMINATION FOR CONVENIENCE: Unless expressly provided for otherwise in the Contract, the Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If the Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by the City before the effective date of termination.

56. TERMINATION DUE TO INSOLVENCY: If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate the Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. PAYMENT UPON TERMINATION: Upon termination of the Contract, the City will pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. CANCELLATION FOR GRATUITIES: The City may cancel the Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with award or performance of the Contract.

59. CANCELLATION FOR CONFLICT OF INTEREST: Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. COOPERATIVE PURCHASE CONTRACTS: Presuming that Contractor agreed to such during the procurement process, Contractor will enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell materials and services to any member of a cooperative group under the same pricing, terms and conditions of the contract awarded to the Contractor by the public procurement unit, following a competitive procurement process.

61. ADVERTISING: Contractor shall not advertise or publish information concerning its Contract with the City without the prior written consent of the City.

62. NOTICES: All notices given pursuant to the Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other Party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four days after being sent; or (c) sent by overnight courier, with receipt deemed effective two days after being sent. Notice may be sent by email as a secondary form of notice.

63. THIRD PARTY BENEFICIARIES: The Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.

64. GOVERNING LAW: The Contract shall be construed in accordance with the laws of Arizona.

65. FORUM: In the event of litigation relating to the Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

66. ATTORNEYS' FEES: If any action at law or in equity is necessary to enforce the terms of the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

67. FORCE MAJUERE:

a. There may be events that occur during the term of the Contract that are beyond the control of both the City and Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God ("Events"). These Events may result in a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables that are the subject of the Contract.

b. There shall be no claims arising from a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables caused by the Events and the City shall not pay additional costs incurred by Contractor as a result of such Events.

c. The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and that the extension will be in an amount of time equal to any temporary delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

68. NO BOYCOTT OF ISRAEL: Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents ($100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

69. CHANGES TO CONTRACT: The Contract shall not be modified within the first year after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other proposers/bidders; or (b) requests for changes may delay commencement of performance.

70. FORCED LABOR OF ETHNIC UYGHURS: If Contractor engages in for-profit activity and has ten (10) or more employees, pursuant to A.R.S. §35-394, the Contractor certifies that it does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If the Contractor becomes aware during the term of the contract that the company is not in compliance with the written certification, the Contractor shall notify the City within five (5) business days after becoming aware of the noncompliance. If the Contractor does not provide the City with a written certification that the Contractor has remedied the noncompliance within 180 days after notifying the City of the noncompliance, this Contract terminates, except that if the contract termination date occurs before the end of the remedy period the Contract terminations on the Contract termination date.

EXHIBIT C

STANDARD INSURANCE REQUIREMENTS

(Last Updated January 19, 2023)

*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

1. IN GENERAL: Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with the Contract by Contractor, its agents, representatives, employees, and/or subcontractors.

2. REQUIREMENT TO PROCURE AND MAINTAIN: Each insurance policy required by the Contract shall be in effect at, or before, commencement of work under the Contract and shall remain in effect until all of Contractor's obligations under the Contract have been met, including any warranty periods. Contractor's failure to maintain the insurance policies as required by the Contract, or to provide timely evidence of renewal, will be considered a material breach of the Contract.

3. MINIMUM SCOPE AND LIMITS OF INSURANCE: The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Where applicable, as related to the Scope of Work, Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	$2,000,000
Products/Completed Operations	$1,000,000
Each Occurrence	$1,000,000

b. Umbrella Coverage $2,000,000

c. Automobile Liability

Any Automobile or Owned, Hired, and Non-owned Vehicles Combined Single Limit Per Accident for Bodily Injury & Property Damage	$1,000,000

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	$1,000,000
Disease - Each Employee	$1,000,000
Disease - Policy Limit	$1,000,000

e. Professional Liability $2,000,000

f. Network Security and Privacy Liability

Per claim	$2,000,000
Annual Aggregate	$2,000,000

4. **NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall maintain the requisite insurance requirements covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. The insurance policy shall include coverage for third-party claims. The insurance policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.

5. **SELF-INSURED RETENTION:** Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that Contractor reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and/or subcontractors. Contractor shall be solely responsible for any self-insured retention amounts. The City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

6. **OTHER INSURANCE REQUIREMENTS:** The insurance policies shall contain, or be endorsed to contain, the following provisions:

   a. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.

   b. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.

   c. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.

   d. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

   e. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.

f. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

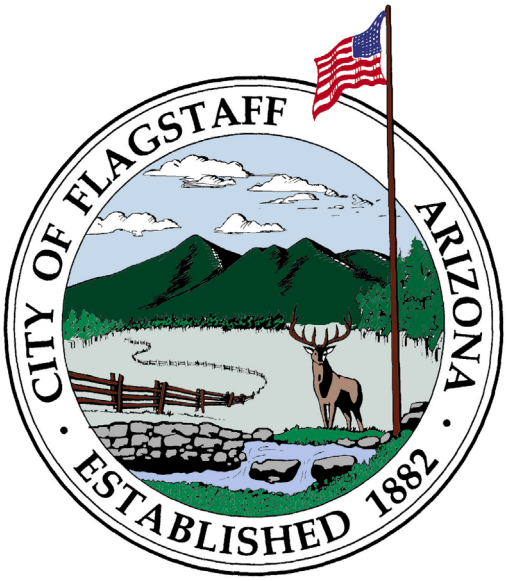
7. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of the Contract shall provide the required coverage and shall not be suspended, voided, cancelled, and/or reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Procurement Agent and shall reference the Contract Number.

8. ACCEPTABILITY OF INSURERS: Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

9. CERTIFICATES OF INSURANCE: Contractor shall furnish the City with certificates of insurance (ACORD form) as required by the Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City Contract number shall be noted on the certificates of insurance. If requested by the City, all certificates of insurance and endorsements must be received and approved by the City before the Contractor commences work.

10. POLICIES: The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by the Contract. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under the Contract.

11. MODIFICATIONS: Any modification or variation from the insurance requirements in the Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.



GRANT PROVISIONS

Sponsor: **City of Flagstaff**

Funding Agency: **Arizona State Parks & Trails**

Arizona State Parks and Trails
GRANT PROJECT SPONSOR AGREEMENT
Attachment B
General Conditions Applicable to Project Grants

This Agreement applies to grants for motorized projects awarded pursuant to the Off-Highway Vehicle Program, the Recreational Trails Program, Heritage Fund Program and State Lake Improvement Fund Program..

PART I – DEFINITIONS

For purposes of this Agreement:

A. "Agreement" means the Grant Project Sponsor Agreement and its attachments.

B. "AORCC" is the Arizona Outdoor Recreation Coordinating Committee. Together, AORCC and the Board are "the Parties."

C. "BOARD" means the Arizona State Parks BOARD. Together, AORCC and the Board are "the Parties."

D. "Conversion" means the replacement of grant-funded facilities with new facilities that are of reasonably equivalent usefulness and location as the original.

E. "Eligible Costs" mean direct costs attributed to the project grant program, such as: 1) compensation of hired employees for the time and efforts devoted specifically to the execution of the grant; 2) cost of materials acquired, consumed, or expended specifically for the purposes of the grant; 3) equipment and other capital expenditures; 4) other items of expense incurred specifically to carry out the participant agreement; and 5) direct services furnished specifically for the grant program by other agencies. These costs are identified by the PROJECT SPONSOR in the Estimated Project Cost Sheet that is submitted with the Certified Application Form and application packet. The costs are then approved by the BOARD or by an amendment to this Project Agreement. Generally, eligible costs are identified in the applicable grant manual.

F. "Facilities" mean capital improvements.

G. "Fund" means the Federal Recreational Trails Program.

H. "Guidelines" mean the Administrative Guidelines for Awarded Grants and any other applicable program directives adopted by the BOARD.

I. "Ineligible Costs" are those costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives of the project.

J. "Match" includes cash, in-kind contributions, or donations, including volunteer time or materials contributed to the project with no intention of reimbursement.

K. "Obsolescence" means that an area or facility may be determined obsolete during the Term of Public Use if (1) reasonable maintenance and repairs are not sufficient to keep the facility or equipment operating; (2) changing needs dictate a change in the type of facilities or equipment provided; (3) operating practices dictate a change in the type of facilities or equipment required; or (4) the facility or equipment is destroyed by fire, natural disaster, or vandalism. Declaring the facility obsolete means that the PROJECT SPONSOR receives a waiver of the replacement requirements. No later than 90 days after a facility or equipment is taken out of public use, the PROJECT SPONSOR may request a waiver of repayment or replacement requirements in writing. A determination of obsolescence may be made at the sole discretion of the
BOARD.

L. "PROJECT SPONSOR" means an eligible applicant that has been awarded a grant to develop a project or coordinate an education program.

M. "Project" means the sum of the activities identified with specific costs in the grant application packet that are eligible under the referenced grant application manual and have been approved by the BOARD.

N. "Project Period" means the period of time during which all approved work and related expenditures associated with development of the project are to be completed by the PROJECT SPONSOR.

O. "Repayment" means returning grant money to the Fund in the event the PROJECT SPONSOR expends advanced funds for ineligible costs or fails to expend the advanced funds for eligible project costs during the term of this grant.

P. "Sub-contract" means an Agreement/contract between the PROJECT SPONSOR and another individual

or entity whereby labor, work, services, or other responsibilities are supplied or performed in furtherance of the PROJECT SPONSOR'S responsibilities under this Agreement

Q. "Term of Public Use" means the time required for public use. The Term of Public Use of the grant-assisted facilities must be at least:

1. Equipment (personal property) grant investment of more than $50,000 per item: 25 years
2. Facilities (real property): 25 years
3. Land: 99 years unless obsolescence applies. The Term of Public Use will begin on the date of completion identified in the Completion Certification Letter.

PART II – PERFORMANCE

A. ADMINISTRATION

1. Conditions - This Agreement is subject to the availability of grant funds and appropriate approvals, and is subject to the Constitution of the State of Arizona, the Arizona Revised Statutes, the Arizona Administrative Code, other acts of the Arizona Legislature, executive orders of the Governor, and the decisions and policies of the BOARD.

2. Incorporation of Application, Grant Manual, and Administrative Guidelines - The following documents are incorporated by reference into this agreement: The PROJECT SPONSOR'S grant application packet; the applicable grant manual; and the most recent revision of the Administrative Guidelines for Awarded Grants. In the event of a conflict or ambiguity, the terms of this Agreement and Attachments A and B to this Agreement must take precedence.

3. Use of Grant Funds - Awarded grant funds must be used solely for eligible purposes of the funding program, as defined by statute and as approved by the BOARD.

4. Transfer of Grant Funds - Awarded grant funds will be transferred to the PROJECT SPONSOR according to the terms of this Agreement. Staff will not process reimbursements requests for less than $1,000 unless it is the final request.

5. Grant Retention - Ten percent (10%) of the grant amount will be retained from reimbursement until Staff notifies the PROJECT SPONSOR in writing that the project is officially closed and completed.

6. Grant Accountability - Grant funds must be managed separately within the PROJECT SPONSOR'S accounting system that identifies the name and number of this project. The funds must only be expended as authorized under the terms of this Agreement.

7. Accomplishment of Project - The project must be accomplished according to the terms of this Agreement and applicable State laws.

8. Amendments - This Agreement may be amended in writing by the Parties of the Agreement upon written request of the PROJECT SPONSOR, good cause shown, and approval by the BOARD. Eligible amendments include adjustments to the project period, funding amount, or minor changes to the scope items.

9. Use of Project - Project accomplishments must be open or available to the public as specified in the Term of Public Use. If the grant funded capital improvements are not maintained and kept open for public use for the term specified in the Term of Public Use, the PROJECT SPONSOR must refund to the BOARD the awarded grant amount within six (6) months of the date the improvements are no longer maintained or kept open for public use, unless the BOARD agrees that obsolescence or conversion is appropriate.

10. Special Conditions - Special conditions to this agreement are binding upon and inure to the benefit of the successors and assigns of each of the Parties to this agreement. Breach of any condition will be enforceable by any remedies available under applicable Federal or State law.

11. Conversion - No land or facilities acquired or developed with State assistance will, without the approval of the BOARD, be converted to other than public use during the Term of Public Use. The BOARD will approve such conversion only if it finds the replacement property to be in accord with the current grant statute. Conversions will require the substitution of other properties of at least equal fair market value and of reasonably equivalent usefulness and location, and concurrence of the landowner. The replacement property will then become subject to this agreement. In lieu of conversion, the PROJECT SPONSOR may apply for a declaration of obsolescence. In the event the BOARD provides grant assistance for the acquisition and/or development of real property subject to reversionary interests, with full knowledge of those reversionary interests and with written notice of those reversionary interests, conversion of said property to other than public uses as a result of such reversionary uses being exercised

may be approved. The PROJECT SPONSOR must notify the BOARD of the conversion as soon as possible and seek approval of replacement property in accord with the conditions set forth in this agreement. The PROJECT SPONSOR must accomplish such replacement within a reasonable time, acceptable to the BOARD, after the conversion of the property occurs. This paragraph also applies to (1) leased properties acquired and/or developed with Fund assistance, where such lease is terminated prior to its full term pursuant to lease provisions known and agreed to by the BOARD; and (2) properties subject to other outstanding rights and interests known to and agreed to by the BOARD.

B. RELATIONSHIP OF PROJECT COSTS TO THE PROJECT PERIOD

Except for pre-agreement costs approved by the BOARD, only those costs associated with approved project work incurred during the project period will be eligible for reimbursement according to the terms of this agreement. Combined pre-agreement and design and engineering costs must not exceed 10% of the approved grant award.

C. ACQUISITION

Values of property purchased with grant assistance must be appraised by an appraiser with active State certifications according to the Uniform Standards of Professional Appraisal Practice. This appraisal must be prepared within one year prior to the acquisition. Grant participation must be according to the grant award amount, the approved market value, or the purchase price, whichever is less.

D. CARE AND DISPOSITION OF EQUIPMENT

Equipment purchased with grant funds to develop a project may remain in the possession of the PROJECT SPONSOR for as long as the equipment is being used for eligible project work, at the sole discretion of State Parks. State Parks reserves the right to claim equipment purchased under this Agreement when it is no longer being used for the purpose for which it was purchased.

E. SUB-CONTRACTS

1. Sub-contracts awarded to accomplish the project must incorporate by reference, in each sub-contract, the provisions of this Agreement. The PROJECT SPONSOR bears full responsibility for acceptable performance under each sub-contract.

2. The PROJECT SPONSOR must pay when due any claim of a sub-contractor, employee, independent contractor, or any other employed individual performing the approved work for services pursuant to this Agreement.

3. Any sub-contract for employment by the PROJECT SPONSOR must be in writing and contain a provision whereby a person so employed or with whom a sub-contract has been entered acknowledges that the State of Arizona and the BOARD are not be liable for any costs, claims, damages, reimbursement, or payment of any kind relating to such sub-contract.

F. PROJECT REPORTING, REVIEWS, AND ON-SITE INSPECTIONS

1. The PROJECT SPONSOR must submit a project status report not less than quarterly. The status report will include, at a minimum, the following: (a) progress toward completing the approved scope of work; and (b) any problems encountered and solutions to problems regarding completion of the project. Failure to submit the reports will result in delays in grant reimbursement or advance processing. The PROJECT SPONSOR must consult with the BOARD, as needed, to review progress. The BOARD reserves the right to review the progress of the project and to conduct on-site inspections, as applicable and as needed, at any reasonable time during the project period or required Term of Public Use in order to assure compliance with the terms of this agreement.

2. The PROJECT SPONSOR must certify compliance with the Project Agreement every five years, until the end of the Term of Public Use, on a form to be provided by the BOARD. In addition, on-site inspections will be conducted periodically at the discretion of the BOARD. The following will be taken into consideration during the inspection of properties that have been acquired or developed with grant assistance: retention and use; appearance, and maintenance.

3. The PROJECT SPONSOR must provide the Board with written consent of the landowner to conduct on-site inspections; failure to do so is a failure to keep or maintain the property for public use.

G. EARNED INTEREST ON ADVANCED FUNDS

Interest generated from funds advanced to the PROJECT SPONSOR during the project period must be used to further the purposes of the specified project. Funds advanced, but not spent to complete the project, must be returned to the BOARD at the completion of the project.

H. PRODUCT OR PUBLISHABLE MATTER OWNERSHIP

With written permission from the BOARD or Arizona State Parks, the PROJECT SPONSOR may use products or publishable matter produced with grant assistance the BOARD will have nonexclusive license to use and reproduce, without payment, such materials. The PROJECT SPONSOR must receive written permission from State Parks prior to utilizing publishable material for commercial or public purposes. This paragraph is not applicable to architectural or engineering plans produced with grant assistance.

I. FUND SOURCE RECOGNITION

The PROJECT SPONSOR must permanently and publicly acknowledge the grant program(s) that assisted project accomplishments (including, but not limited to: final documents; audio-visual recordings; photographs; plans; drawings; publications; advertisements; and project plaques). At a minimum, this acknowledgment must include the following: "This program was financed in part (or in full) by a grant from the Federal Recreational Trails Program administered by the Arizona State Parks."

J. PROJECT COST VERIFICATION

The PROJECT SPONSOR must submit project expenditure documents to the BOARD or State Parks for verification or audit purposes, upon request.

K. TRANSFER OF CONTRACTUAL RESPONSIBILITY

The PROJECT SPONSOR may transfer responsibilities under the terms of this agreement to another eligible participant, provided that approval has been granted by the BOARD in writing prior to the transfer.

PART III – COMPLIANCE

A. ANTI-TRUST

Vendor and purchaser recognize that, in actual economic practice, overcharges from anti-trust violations are borne by purchaser. Therefore, the PROJECT SPONSOR hereby assigns to BOARD any and all claims for such overcharges.

B. ARBITRATION

In accordance with A.R.S. § 12-1518, the parites agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review execpt as may be requied by other applicable statutes. Venue shall be in Maricopa County, Arizona.

C. APPLICABLE LAW

In accordance with A.R.S. § 51-2501, et seq, and A.A.C. R2-7-101, et seq. Agreement shall be governed and interpreted by the laws of the State of Arizona and the Arizona State Procurement Code.

D. NON-DISCRIMINATION

In accordance with A.R.S. § 41-1461, et seq, Agreement shall provide equal employment opportunites for all persons, regardless of race, color, creed, religion, sex, age, national origin, disability or political affiliation. PROJECT SPONSOR shall comply with all applicable provisions of the Arizonans with Disabilities Act of 1992, A.R.S. § 41-1492, et. seq. and the Americans with Disabilities Act, (Public Law 101-336, 42 U.S.C. 12101-12213 and 47 U.S.C. § 225 and 611), and applicable state rules and federal regulations under the Acts.

E. E-VERIFY

In accordance with A.R.S. § 41-4401, PROJECT SPONSOR warrants compliance with all Federal immigaration laws and regulations relating to employees and warrants its compliance with AAC section

A.R.S. § 23-214, Subsection A.

F. AUDIT AND RECORDS RETENTION

In accordance with A.R.S. § 35-214, the PROJECT SPONSOR shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the PROJECT SPONSOR shall produce the original of any or all such records.

G. CONFLICT OF INTEREST

In accordance with A.R.S. § 38-511, state may within three years after execution cancel the Contract, without penaly or further obligation, if any person significantly involved in initiatingm negotiating, securing, drafting or creating the Agreement on behalf of the State, at Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

H. REMEDIES

1. The BOARD may temporarily suspend grant assistance obligated to the PROJECT SPONSOR pending required corrective action by the PROJECT SPONSOR or pending a decision to terminate the grant by the BOARD.
2. The PROJECT SPONSOR may unilaterally terminate this Agreement at any time before the first payment is made. After the initial payment, this Agreement may be terminated, modified, or amended by the PROJECT SPONSOR only by written mutual agreement of the Parties.
3. The BOARD may terminate this Agreement in whole or in part at any time before the date of completion if it determines that the PROJECT SPONSOR has failed to comply with the terms or conditions of the grant. The BOARD will promptly notify the PROJECT SPONSOR in writing of the determination and the reasons for the termination, including the effective date. All payments made to the PROJECT SPONSOR must be returned to the BOARD if this Agreement is terminated for cause.
4. The BOARD or PROJECT SPONSOR may terminate this Agreement in whole or in part at any time before the date of completion when both Parties agree that the continuation of the development project would not produce beneficial results commensurate with the further expenditure of funds. The two Parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The PROJECT SPONSOR must not incur new obligations for the terminated portion after the effective date and must cancel as many outstanding obligations as possible. The BOARD may allow full credit to the PROJECT SPONSOR for the grant share of properly incurred obligations that cannot otherwise be cancelled before the effective termination date.
5. The BOARD may require specific performance of the terms of this Agreement or take legal steps necessary to recover the funds granted if the PROJECT SPONSOR fails to comply with the terms of the grant or breaches any condition or special condition of this Agreement.
6. The BOARD may request and the PROJECT SPONSOR must deliver repayment of funds advanced under this agreement in conjunction with the remedies in this section.
7. The remedies expressed in this Agreement do not limit the rights of the BOARD. This Agreement does not in any way abridge, defer, or limit the BOARD'S right to any right or remedy under law or equity that might otherwise be available to the BOARD.

I. CULTURAL RESOURCES

The PROJECT SPONSOR must meet the requirements of the State Historic Preservation Act (A.R.S. §41-861 to 41-864) before project initiation.

K. DISCLOSURE REQUIREMENTS

PROJECT SPONSOR must comply with the terms of A.R.S. § 35-181.03 or its successor statute(s) regarding audited financial statements provided to the BOARD.

L. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as

"Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, Arizona State Parks Board (ASPB) is selfinsured per A.R.S. 41-621.

In addition, should PROJECT SPONSOR utilize a contractor(s) and subcontractor(s) the indemnification clause between PROJECT SPONSOR and its contractor(s) and subcontractor(s) shall include the following:

To the fullest extent permitted by law, sub-contractor shall defend, indemnify, and hold harmless the PROJECT SPONSOR and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, , officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

M. INSURANCE REQUIREMENTS

PROJECT SPONSOR and sub-contractors must procure and maintain occurrence-based insurance policies that cover claims for injury or death to persons or damage to property that may arise from or in connection with the performance of the work hereunder by the PROJECT SPONSOR, its agents, representatives, employees or sub-contractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the PROJECT SPONSOR from liabilities that might arise out of the performance of the work under this Agreement by the PROJECT SPONSOR, its agents, representatives, employees or sub-contractors, and PROJECT SPONSOR is free to purchase additional insurance.

Minimum Scope and Limits of Insurance:

PROJECT SPONSOR shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Blanket Contractual Liability – Written and Oral	$1,000,000
• Fire Legal Liability	$ 100,000
• Each Occurrence	$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its

departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the PROJECT SPONSOR.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

• Combined Single Limit (CSL)	$1,000,000

a. The policy must be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the PROJECT SPONSOR, involving automobiles owned, leased, hired or borrowed by the PROJECT SPONSOR."

b. Policy must contain a waiver of subrogation against the State of Arizona, as departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.

3. Worker's Compensation and Employers' Liability

• Workers' Compensation	Statutory
•Employers' Liability	
- Each Accident	$ 500,000
- Disease – Each Employee	$ 500,000
- Disease – Policy Limit	$1,000,000

a. Policy must contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.

b. This requirement does not apply to: Separately, EACH PROJECT SPONSOR or sub-contractor exempt under A.R.S. 23-901, and when such PROJECT SPONSOR or sub-contractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the PROJECT SPONSOR, even if those limits of liability are in excess of those required by this Agreement.
2. The PROJECT SPONSOR'S insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the PROJECT SPONSOR shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

Notice of Cancellation:

Applicable to all insurance policies required within the Insurance Requirements of this Agreement, PROJECT SPONSOR'S insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, PROJECT SPONSOR must provide notice to the State of Arizona if they receive notice of a

policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

Acceptability of Insurers

PROJECT SPONSOR'S insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the PROJECT SPONSOR from potential insurer insolvency.

Verification of Coverage:

PROJECT SPONSOR shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that PROJECT SPONSOR has the insurance as required by this Agreement. An authorized representative of the insurer shall sign the certificates.

1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
2. Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of work under this Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.
3. All certificates required by this Agreement shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

Subcontractors:

PROJECT SPONSOR's certificate(s) shall include all subcontractors as insureds under its policies or PROJECT SPONSOR shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Agreement, proof from the PROJECT SPONSOR that its subcontractos have the required coverage.

Approval and Modifications:

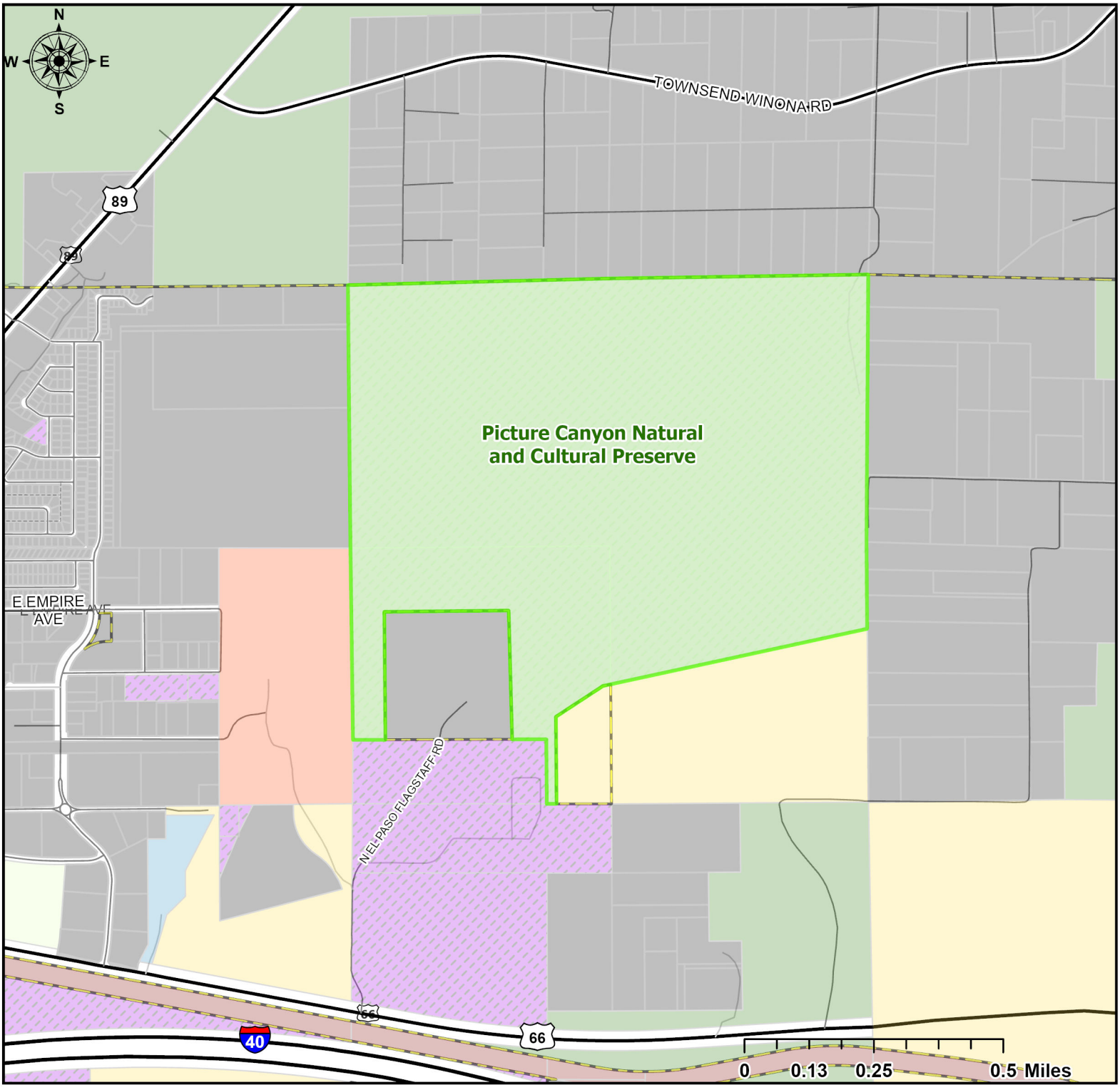
The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this Agreement, as deemed necessary. Such action will not require a formal Agreement amendment, but may be made by administrative action.

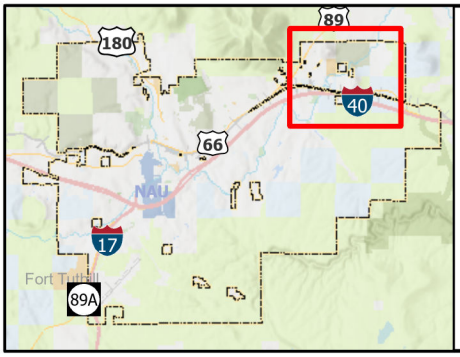
Exceptions:

In the event the PROJECT SPONSOR or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the PROJECT SPONSOR of subcontract(s) isare a State of Arizona agency, board, commission, or university, none of the above shall apply.

Overview

Picture Canyon Natural and Cultural Preserve





- Picture Canyon Boundary
- City Boundary
- ADOT
- BNSF
- City of Flagstaff Management
- Coconino County
- Coconino National Forest
- Private Ownership
- State Trust
- State of Arizona

4/22/2020

9. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacey Brechler-Knaggs, Grants, Contracts & Emergency Management Director
Co-Submitter:	Daniel Kelly, Emergency Manager
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Approve a Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $63,300.00, in addition to other fees and taxes, for an Emergency Response Truck.

STAFF RECOMMENDED ACTION:

1. Approve a Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $63,300, in addition to other fees and taxes, for a Emergency Response Truck; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Emergency Management Program has been using an older, used Streets truck with high mileage for our Emergency Management response vehicle. This purchase of a 2024 Chevrolet 2500 Silverado Crew Cab will be used for the Emergency Management program to respond to all-hazard emergency incidents, numerous special events, trainings, and exercises within the State.

Emergency Management requested and was approved for a non-electric vehicle. Due to the mission of emergency management, the vehicle must be able to traverse rough terrain and extreme weather conditions for an extended amount of time. The vehicle will require dual batteries to support the technology, communications, and emergency lights and sirens. The vehicle will also be required at times to pull a trailer loaded with equipment to events and incidents. In addition, there will be a need for State and/or regional response to emergencies or disasters.

Financial Impact:

The vehicle is being purchased through the Cooperative Purchase State Contract #CTR059315. The vehicle is budgeted in FY 2023-2024 in the amount of $75,000, in the General Fund, in the Grants, Contract & Emergency Managements Section (account number 001-02-039-0114-1-4401).

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance - Serve the public by providing high quality customer service
Safe & Healthy Community - Provide public safety services with resource, staff & training responsive to the community needs

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

1. Approve the Cooperative Purchase Contract with Courtesy Chevrolet for a Emergency Response Truck; or
2. Do not approve the cooperative purchase and direct staff to conduct a formal solicitation.

Background/History:

The City of Flagstaff created a new Emergency Management Program and part of developing the program is to utilize the vehicle for emergency and non-emergency operations. The Procurement department utilized State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. BPM004157 that resulted in Contract # CTR059315 with Courtesy Chevrolet.

Key Considerations:

Emergency Management is a core public safety function that works to prepare the community to mitigate against, prepare for, respond to, and recover from large incidents or disasters. This vehicle is a critical piece of equipment for the Emergency Management Program for everyday normal operations and during times of emergencies or incidents.

Community Benefits and Considerations:

This vehicle will assist the emergency management program to protect and preserve the safety of our community.

Attachments: Contract
Exhibit A - Quote
Exhibit B.1
Exhibit B.2
Exhibit B.3

COOPERATIVE PURCHASE CONTRACT
Contract No. 2023-150

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 20_____by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and Courtesy Chevrolet, a State of Arizona Corporation ("Contractor").

RECITALS:

A. Contractor is a fully authorized vendor of Chevrolet vehicles;

B. The State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. BPM004157 that resulted in Contract No. CTR059315 with Contractor ("Agency Contract"); and

C. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

2024 Chevrolet Silverado Flagstaff Emergency Management

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Purchase Order(s) submitted to Contractor or *Exhibit A* attached hereto and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided for **sixty-three thousand three hundred sixty-two dollars and zero cents ($63,300.00) in addition to other fees and taxes**; made in accordance with the price list and terms set forth in the Agency Contract.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in *Exhibit B* attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract, including, specifically changes in price for the materials.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

COURTESY CHEVROLET:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A
QUOTE FROM COURTESY CHEVROLET (attached)

EXHIBIT B
AGENCY CONTRACT

1. March 17, 2022, Agency Contract Award Request for Proposal Solicitation No. BPM004157
2. Contract Amendment Summary
3. Courtesy Chevrolet Pricing

COURTESY CHEVROLET

5/30/2023

STATE OF ARIZONA
VEHICLE QUOTE
STATE CONTRACT# CTR059315

VEHICLE	**2024 CHEVROLET 2500 SILVERADO CREW CAB LT 4X4 6.5' BED** **PER ATTACHED SPECS**	$ 56,437.55
	DELIVERY TO FLAGSTAFF	$ 250.00
	TWO ADDITIONAL FOBS	$ 325.00
TOTAL		$ 57,012.55
SALES TAX		$ 4,766.93
TIRE TAX		$ 5.00
GRAND TOTAL		$ 61,784.48

ORDERED UNIT
120-150 DAYS ARO

Courtesy Chevrolet
Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 2500HD (CK20743) 4WD Crew Cab 159" LT (Complete)

Selected Model and Options

MODEL

CODE	MODEL	MSRP
CK20743	2024 Chevrolet Silverado 2500HD 4WD Crew Cab 159" LT	$54,000.00

COLORS

CODE	DESCRIPTION
GAZ	Summit White

OPTIONS

CODE	DESCRIPTION	MSRP
___	Suspension, Off-Road includes twin-tube shocks (Included and only available with (Z71) Z71 Off-Road Package.)	Inc.
1LT	LT Preferred Equipment Group includes standard equipment	$0.00
A2X	Seat adjuster, driver 10-way power including lumbar (Included and only available with (PCL) Convenience Package.)	Inc.
AZ3	Seats, front 40/20/40 split-bench with covered armrest storage and under-seat storage (lockable) (STD) (On Crew Cab and Double Cab models, not available with (PCM) Convenience Package II unless (PCL) LT Convenience Package I is ordered.)	$0.00
B59	Remote Start Package includes (BTV) Remote Start, (UTJ) Theft Deterrent System and (C49) rear-window defogger (Requires (PCL) Convenience Package.)	$525.00
BTV	Remote vehicle starter system (Included and only available with (B59) Remote Start Package.)	Inc.
C49	Defogger, rear-window electric (Included with (B59) Remote Start Package.)	Inc.
CGN	Chevytec spray-on bedliner Black (does not include spray-on liner on tailgate due to Black composite inner panel) (Included with (PDZ) Z71 Off-Road and Protection Package, (WJP) Midnight Edition, (WEA) Z71 Sport Edition, (WBL) Z71 Chrome Sport Edition, (CMT) Gooseneck/5th Wheel Package or (ANQ) Alaskan Snow Plow Special Edition. Not available with (ZW9) pickup bed delete.)	Inc.
CJ2	Air conditioning, dual-zone automatic climate control (Included and only available with (PCL) Convenience Package.)	Inc.
CMT	Gooseneck/5th Wheel Package includes (Z6A) Gooseneck/5th Wheel Prep Package (Includes (CGN) Chevytec spray-on bedliner. Not available with (ZW9) pickup bed delete.)	$1,090.00
DD8	Mirror, inside rearview auto-dimming (Included and only available with (DWI) trailer mirrors. Not available with (DRZ) Rear Camera Mirror.)	Inc.
DWI	Mirrors, outside power-adjustable vertical trailering with heated and auto-dimming upper glass lower convex mirrors, turn signal indicators, puddle lamps, perimeter lighting, auxiliary lighting, power folding/manual extending (extends 3.31" [84.25mm]) (Requires (PCL) Convenience Package. Includes (DD8) auto-dimming rearview mirror.)	$530.00

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Data Version: 19546. Data Updated: May 29, 2023 6:36:00 PM PDT.

Courtesy Chevrolet
Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 2500HD (CK20743) 4WD Crew Cab 159" LT (Complete)

OPTIONS

CODE	DESCRIPTION	MSRP
FE9	Emissions, Federal requirements	$0.00
GAZ	Summit White	$0.00
GT4	Rear axle, 3.73 ratio (Requires (L8T) 6.6L V8 gas engine. Not available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	$0.00
H0U	Jet Black, Cloth seat trim	$0.00
IOK	Audio system, Chevrolet Infotainment 3 Premium system with Google built-in compatibility (select service plan required, terms and limitations apply) including navigation capability, 13.4" diagonal HD color touchscreen, includes multi-touch display, AM/FM stereo, Bluetooth streaming audio for music and most phones; featuring Wireless Apple CarPlay and Wireless Android Auto capability for compatible phones, advanced voice recognition, in-vehicle apps, personalized profiles for infotainment and vehicle settings (STD)	$0.00
JGH	GVWR, 10,850 lbs. (4921 kg) (Included and only available with CK20743 model and (L8T) 6.6L V8 gas engine with 18", 20" or 22" wheels.)	Inc.
JHD	Hill Descent Control (Included and only available with (Z71) Z71 Off-Road Package.)	Inc.
K4Z	Battery, auxiliary, 730 cold-cranking amps/70 Amp-hr (Requires (L8T) 6.6L V8 gas engine and either (KW5) 220-amp alternator or (KHF) dual alternators. Not available with (KW7) 170-amp alternator.)	$135.00
KA1	Seating, heated driver and front outboard passenger (Included and only available with (ZM9) Heat Package.)	Inc.
KC9	Power outlet, bed mounted, 120-volt (400 watts shared with (KI4) interior power outlet) (Included and only available with (KI4) Power outlet. Not available with (ZW9) pickup bed delete.)	Inc.
KI3	Steering wheel, heated (Included and only available with (ZM9) Heat Package.)	Inc.
KI4	Power outlet, interior, 120-volt (400 watts shared with (KC9) bed mounted power outlet) (Included and only available with (PCL) Convenience Package.)	Inc.
KW5	Alternator, 220 amps (Included with (L5P) Duramax 6.6L Turbo-Diesel V8 engine or (VYU) Snow Plow Prep/Camper Package. Free flow on (L8T) 6.6L V8 gas engine.)	$150.00
L8T	Engine, 6.6L V8 with Direct Injection and Variable Valve Timing, gasoline, (401 hp [299 kW] @ 5200 rpm, 464 lb-ft of torque [629 N-m] @ 4000 rpm) (STD)	$0.00
MKM	Transmission, Allison 10-Speed automatic (STD) (Standard with (L8T) 6.6L V8 gas engine.)	$0.00
N37	Steering column, manual tilt and telescoping (Included and only available with (PCL) Convenience Package. Beginning February 27, 2023 through June 4, 2023, certain vehicles will be forced to include (N37) manual tilt/telescoping steering column that will remove the (N33) Tilt-Wheel manual steering column. Does not include later dealer retrofit. See dealer for details or the window label for the features on a specific vehicle.)	Inc.
NZZ	Skid Plates protect the oil pan, front axle and transfer case (Included with (Z71) Z71 Off-Road Package or (VYU) Snow Plow Prep/Camper Package.)	Inc.

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Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 2500HD (CK20743) 4WD Crew Cab 159" LT (✓ Complete)

OPTIONS

CODE	DESCRIPTION	MSRP
PCL	Convenience Package includes (KI4) 120-volt power outlet, (KC9) 120-volt bed-mounted power outlet, (UF2) Cargo bed LED lighting, (UBI) 2 charge-only USB ports for second row, (CJ2) dual-zone automatic climate control, (A2X) 10-way power driver seat including power lumbar, (N37) manual tilt/telescoping steering column, (T3U) LED fog lamps (Requires (ZM9) Heat Package and (B59) Remote Start Package.)	$1,210.00
PYT	Wheels, 18" (45.7 cm) painted steel (Requires a Fleet or Government order type.)	$0.00
QF6	Tires, LT275/70R18E all-terrain, blackwall (Not available on Regular Cab models with (ZW9) pickup bed delete. Included with (PDZ) Z71 Off-Road and Protection Package.)	$200.00
S6L	LPO, Off-road assist steps, 3" round tubular, Black (dealer-installed) (Not available with Regular Cab model or any other assist steps.)	$920.00
SNO	LPO, Hitch Package Gooseneck ball and chain tiedown kit with case, (dealer-installed) (Requires (CMT) Gooseneck/5th Wheel Package. Not available with (ZW9) pickup bed delete.)	$325.00
T3U	Fog lamps, front, LED (Included with (PCL) Convenience Package.)	Inc.
UBI	USB ports, rear, dual, charge-only (Included and only available with (KI4) 120-volt power outlet.)	Inc.
UF2	LED Cargo Area Lighting located in pickup bed, activated with switch on center switch bank or key fob (Included with (PCL) Convenience Package. Not available with (ZW9) pickup bed delete.)	Inc.
UTJ	Theft-deterrent system, unauthorized entry (Included and only available with (B59) Remote Start Package.)	Inc.
VOZ	LPO, Hard-folding tonneau cover by REV (dealer-installed) (Not available with any other tonneau cover.)	$1,595.00
Z6A	Gooseneck/5th Wheel Prep Package Hitch platform to accept Gooseneck or 5th Wheel hitch. Includes hitch platform with tray to accept ball, stamped bed holes with removable caps installed and bed mounted 7-pin trailer harness (similar to UY2 harness). (Included and only available with (CMT) Gooseneck/5th Wheel Package.)	$0.00
Z71	Z71 Off-Road Package includes (Z71) Off-Road suspension with off-road tuned twin tube Rancho shocks, (JHD) Hill Descent Control and (NZZ) skid plates (transfer case and oil pan) (Requires 4WD model. Includes (QXT) LT265/70R17 all-terrain, blackwall tires and molded in color Black grille. Included with (PDZ) Z71 Off-Road and Protection Package. "4X4" decals on bed are replaced with "Z71" fender badge. Not available with (ZW9) pickup bed delete.)	$325.00
ZM9	Heat Package includes (KA1) Heated driver and passenger seats and (KI3) Heated steering wheel (Requires (PCL) LT Convenience Package.)	$400.00
ZYG	Tire, spare LT275/70R18 all-terrain, blackwall (Included with (ANQ) Alaskan Snow Plow Special Edition. Included and only available with (QF6) LT275/70R18E all-terrain, blackwall tires, (QG3) LT275/70R18 mud-terrain, blackwall tires or (QF9) LT275/65R20 all-terrain, blackwall tires with (E63) Durabed, pickup bed. Included when (QFG) LT275/65R20 blackwall off-road tires are ordered without (ZW9) pickup bed delete. Available to order when (ZW9) pickup bed delete and (QF6) LT275/70R18E all-terrain, blackwall tires are ordered.)	Inc.
	Options Total	**$7,405.00**

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Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 2500HD (CK20743) 4WD Crew Cab 159" LT (Complete)

Price Summary

PRICE SUMMARY

	MSRP
Base Price	$54,000.00
Total Options	$7,405.00
Vehicle Subtotal	$61,405.00
Destination Charge	$1,895.00
Grand Total	**$63,300.00**

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59,177.55

DocuSign Envelope ID: 7AE6D603-F496-4243-9920-A7948B4C771C

ADOT
Procurement

OFFER AND ACCEPTANCE

OFFER

TO THE STATE OF ARIZONA:

The undersigned hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Courtesy Chevrolet Offeror (Company) Name	Signature of Person Authorized to Sign Offer Joe Pfeffer January 11, 2022
1233 East Camelback Road Address	Printed Name Date
Phoenix, AZ 85014 City State Zip	Fleet Manager Title
jpfeffer@houseofcourtesy.com Email Address	602-279-3232 Phone Number
www.courtesyfleet.com Company Email Address	602-264-9230 Fax Number

By signature in the Offer section above, the Offeror certifies that the submission of the Offer did not involve collusion or other anticompetitive practices.

ACCEPTANCE OF OFFER (FOR DEPARTMENT USE ONLY)

The Contractor is now bound to perform based upon Contract Number CTR059315 including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the state.

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this 17th day of March 2022

DocuSigned by:
Pamela Wade
Procurement Officer

3/10/2022
Awarded Date

Procurement

STATE OF ARIZONA
ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson St., Ste. A
Phoenix, AZ 85007

REQUEST FOR PROPOSAL

SOLICITATION NUMBER: BPM004157

DESCRIPTION: New Vehicle Purchases

QUESTIONS: Inquiries regarding the solicitation are to be submitted online through the State's e-Procurement system, Arizona Procurement Portal (APP) (https://app.az.gov/) using the Discussion Forum tab.

OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.

Thomas Kornell
Procurement Officer
Phone: 602-712-8520
Email: Tkornell@azdot.gov

This solicitation is issued in accordance with A.R.S. §41-2534 and A.A.C. R2-7-C301 et seq., Competitive Sealed Proposals.

"An Equal Opportunity Agency"

The Arizona Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Americans with Disabilities Act (ADA), hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration for an award.

Persons that require a reasonable accommodation based on language or disability should contact ADOT's Procurement Office by phone (602) 712-2089. Requests should be made as early as possible to ensure the State has an opportunity to address the accommodation.

Las personas que requieran asistencia (dentro de lo razonable) ya sea por el idioma o discapacidad deben ponerse en contacto con ADOT (602) 712-2089.

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1. Statement of Need

1.1. Pursuant to the Arizona Procurement Code, A.R.S. §41-2501 et seq., the State of Arizona Department of Transportation (Department), has a requirement for New Vehicle Purchase.

2. Introduction and Background

2.1 The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures.

2.2 Background: The State and its Eligible Agencies currently spend an estimated twenty-one million dollars in the purchase of new vehicles annually.

2.3 The following are the Three Categories covered in this Scope of Work:

- **Category One: Phase One (1) Vehicle Purchases**
- **Category Two: Phase Two (2) Vehicle Purchases**
- **Category Three: FTA Funded Vehicles**

3 General Requirements

3.1 Vehicles shall be new and supplied with all equipment and accessories indicated as standard equipment in the manufacturer's published literature (or website). Optional equipment necessary to meet the minimum requirements shall be included.

3.2 All vehicles ordered through Phase 1 (off the line) shall be Manufacturer's current year models in production throughout the term of this contract and shall be serviced completely by the vendor before delivery and ready in all respects for use. For the initial contract period; vehicles shall be new model year 2022 or greater.

3.3 Vehicles ordered through Phase 2 (on the lot) shall have less than 100 original odometer miles and be new (have never been previously owned) unless pre-approved in writing by the Eligible Agency.

3.4 All vehicles shall meet requirements of applicable Arizona Motor Vehicle laws and all other applicable Federal Motor Vehicle Safety Standards (including the Federal Bridge Formula), whether or not such requirements are specified in detail.

3.5 For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation.

3.6 Delivery location shall be identified on the issuing agency purchase order. Deliveries shall be made within 120 days of receipt of purchase orders, unless factory delays make this impossible. Dealer shall notify the ordering agency of such delays along with a revised delivery estimate from the factory immediately after it becomes known. If the manufacturer has a website available to check order status, this information will be shown in space provided on Offer Response Form.

3.7 All deliveries shall be made Monday through Friday from 8:00 A.M. to 2:00 P.M. The Contractor shall be required to give the using agency a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and number of units to be delivered.

3.8 All vehicles shall be delivered with four (4) entrance tools and a full tank(s) of fuel, less delivery fuel.

3.9 The following documents shall be provided upon delivery of the vehicle(s):

3.9.1 M.S.O. (Manufacturer Statement of Origin) that includes the odometer statement
3.9.2 Warranty Document
3.9.3 Manufacturers unaltered invoice
3.9.4 Delayed warranty / in service start request form (if requested by ordering entity)
3.9.5 Level 1 Inspection if applicable, completed before delivery

3.10 For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract.

4 Specific Requirements

4.1 The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency.

4.2 As new model year vehicles become available, vendor shall submit pricing at either the same rate as the previous model, or submit a request for an increase or decrease based only on the manufacturer's increase or decrease. Documentation must be submitted to the Procurement Officer within 30 days of the effective date of change. New model year vehicles cannot be offered without approval from the Procurement Officer.

4.3 The following fuel types are allowable under this contract are to include but are not limited too.

4.3.1 Flexible Fuel Vehicles (FFV) also called Ethanol or E85
4.3.2 Diesel

4.3.3 Gasoline
4.3.4 Compressed Natural Gas (CNG): CNG systems must be O.E.M. or O.E.M. approved
4.3.5 Hybrid-Electric Vehicles (HEV)
4.3.6 Plug-in Hybrid Electric Vehicles (PHEV)
4.3.7 Electric Vehicles (EV) also called Battery Electric Vehicles (BEV)
4.3.8 Fuel Cell Vehicles (FCV)

4.4 Vehicle Up-fit / Modifications

4.4.1 The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency.

4.4.2 The Eligible Agency will supply all up-fit/modification requests to the Contractor. The Contractor shall identify any conditions that apply to the up-fit/modification on a quotation to the Eligible Agency for review before any work commences.

4.5 Minimum Vehicle Requirements: All prices shall include the following equipment:

4.5.1 All standard factory equipment

4.5.2 Automatic transmission [maximum towing/payload capacity shall be provided upon request)

4.5.3 Bluetooth capabilities

4.5.4 AM/FM radio

4.5.5 Cruise Control

4.5.6 Power Door Locks/Power Windows
4.5.7 Power Mirrors when available

4.5.8 Four (4) entrance tools (in any combination allowed; keyless entry remotes, integrated or smart keys, standard cut keys) per vehicle.
a. Type of keys to be provided shall be indicated on quote.

4.5.9 Air conditioning
a. Rear air conditioning on all vehicles, when available

4.5.10 Cloth seats

4.5.11 Rear view mirrors including on driver and passenger doors
a. FOR TRUCKS: Rear view mirrors on driver front and passenger front doors, largest available without upgrading vehicle options package.
b. Back up Camera

4.5.12 Spare tire
a. Full size standard steel wheel with matching Original Equipment Manufacturer spare tire identical to standard equipment with the trim level of the delivered vehicle.
b. If full spare is not available due to space or manufacturer standards, an alternative shall be provided and noted on quote provided.

4.5.13 Floor Mats

a. O.E.M. floor mat sets installed in all seating rows where the vehicle comes with carpeted floors.

b. Fixed driver floor mat

4.5.14 Arizona legal tinted glass

4.5.15 Minimum of 2 USB charging Ports

4.6 Specific Requirements for Trucks (when available)

4.6.1 Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW.

4.6.2 Skid plate package and anti-slip differential for four-wheel drive vehicles

4.6.3 Front tow hooks

5 Contractor's Responsibilities

Contractor shall be responsible for processing the registration, licensing, title and plating of all new vehicles ordered only if requested by the Eligible Agency.

6 Department's Responsibilities

The Eligible Agencies will provide final acceptance and approval of any equipment and services delivered

SPECIAL TERMS AND CONDITIONS

1. CONTRACT TERM

The term of any resultant contract shall commence on the effective day of award and shall continue for a period of twelve months (12) thereafter, unless terminated, cancelled or extended as otherwise provided herein.

2. CONTRACT EXTENSION

By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months.

3. ELIGIBLE AGENCIES

This contract shall be for the use of all State of Arizona departments, agencies and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in any resultant contract, a university, political subdivision or nonprofit educational or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes §41-2632.

4. NON-EXCLUSIVE CONTRACT

This contract shall be for the sole convenience of the Department. The Department reserves the right to obtain like goods or services from another source when necessary. The Off-Contract Purchase Authorization and subsequent procurement shall be consistent with the Arizona Procurement Code.

5. ORDERING PROCESS

The Department shall issue a purchase order to the Contractor. Each purchase order must cite the contract number. This purchase order shall be the only document required for the Department to order and the Contractor to deliver the material and/or service.

Any attempts to represent any material and/or service not specifically awarded as being under contract is a breach of the contract and a violation of the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of but not limited to contract cancellation, suspension and/or debarment of the Contractor.

6. SHIPPING TERMS

Delivery shall be F.O.B. Destination to the location designated herein. Contractor shall retain title and control of all goods until they are delivered. All risk of transportation and related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The Department will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection.

7. DELIVERY

Contract prices shown for each vehicle include delivery cost within a sixty (60) mile radius of Phoenix.

For the purpose of this contract, the address used for mapping the radius within Phoenix will be as follows:

Equipment services shop/ADOT
2225 S 22nd Ave, Phoenix, AZ 85009

Delivery costs for each county outside of the Phoenix area shall be indicated on Offer Response form.

This will be an added cost to the contract price.

Deliveries shall be completed In accordance with the requirements of the contract.
Delivery of the product does not constitute acceptance.

8. INSPECTION AND ACCEPTANCE

Each item delivered shall be subject to a complete inspection by the Department within 10 days after delivery. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.

If the delivered product is not accepted and returned for corrective action, an additional fifteen (15) calendar days shall be allowed for inspection of the corrected or replacement product.

The Contractor shall be responsible for the transport of the material to and from the Department for the correction of items or workmanship not in compliance with the specifications.

Product returned for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted.

9. INVOICING and PAYMENT

Contractor shall submit all billing notices or invoices to the Eligible Agency or Co-Op Buyer at the address Indicated on the applicable Order document.

Separate invoices are required for each shipment of product or delivery of service and shall include at a minimum:

- Department Location's Name and Address
- Vendor Name, Remit to Address and Contact Information
- Contract Number
- Purchase Order Number
- Invoice Number and Date
- Date the items were shipped to the Department
- Applicable payment terms
- Contract Line Item Number
- Line Item Description or Item or Service
- Quantity Purchased

- Line Item Unit of Measure
- Price per Unit and Total per Unit
- Catalog or Other Discount (if applicable)
- Net Unit Price and Total per Unit (if applicable)
- Applicable taxes (as a separate invoice line item)
- Applicable Shipping/Freight Charges etc. (as a separate invoice line item) Materials only.
- Total Invoice Amount Due

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the Department or the State for late or finance charges.

The Department will make every effort to process payment for the purchase of product within thirty (30) calendar days after the Department has conducted the necessary reviews, inspections and acceptance as described herein.

The department acceptance date will be the valid date for starting the thirty (30) calendar day payment period.

Payment due dates, including discount periods, will be computed from the date of acceptance or date of correct invoice (whichever is later) to the date the Department's warrant is mailed.

10. ESTIMATED USAGE

The Department anticipates considerable usage under this contract. The Department reserves the right to increase or decrease actual quantities ordered as circumstances may require. No guarantees are made concerning actual purchases under this contract.

11. PRICING

1 Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.

a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.
b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.
f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.

g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order.

2 CONTRACTOR'S BEST PRICING: Supplier warrants that, for the term of the Contract, the prices and discounts set out in the Pricing Documents, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent items of equipment and materials.

2.1 That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances.

2.2 If Contractor's Best Pricing for equivalent items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.

2.3 For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If it was before, then Supplier agrees to charge at less than the Contract Pricing until the extended difference that would have been realized (i.e., if the Contractor's Best Pricing had been applied when it should have been) has been settled.

3 PRICING-ALL-INCLUSIVE: Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's offer as accepted by State. Details of service not explicitly stated in the Scope of Work or in Contractor's Offer, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the Contract are included in the pricing provided.

4 LARGE VOLUME DISCOUNT PRICING: An Eligible Agency may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible Agency for large volume purchases.

5 A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice through a written contract amendment.

12. PRICE INCREASE

The Department will review **fully documented** requests for price increases for any contract which will or has been in effect for twelve (12) months. The request shall be submitted no less than 60 days prior to the contract renewal date. The Contractor shall provide fully documented information which supports the price increase request. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be

clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment request prior to the time of contract extension will be a factor in the extension review process. The Department will determine whether the requested price increase or an alternate option, is in the best interest of the State. All pricing should reflect the minimum percentage of MSRP.

13. SAFETY STANDARDS

Items supplied under this contract shall comply with all current applicable safety standards and regulations including the Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards.

14. WARRANTY

The Contractor warrants:

1. That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.

2 At a minimum all equipment supplied under these specifications shall be fully warranted by the vehicle manufacturer against mechanical and electrical defects for a minimum period of thirty-six (36) months from the date vehicle is placed in service.

3 This warranty shall cover such items as actual repair labor, parts, and shipping charges to and from the nearest service facility or other designated repair depot.

4 Any defects of design, workmanship or material, shall be fully corrected by the vendor without cost to the state agency or political subdivision.

5 The written warranty shall be included with the delivered vehicles to the Eligible Agency. The warranty terms shall be stated on Attachment 3-A, where indicated. Failure to provide this general information may result in the offer being rejected.

6 Hybrid / Electric Vehicle Warranty: Hybrid-related components including catalytic convertor, electronic control unit, onboard emissions diagnostic device, high voltage battery, transmission, DC/DC convertor for hybrid vehicles shall be covered for 8 years/100,000 miles, battery for electric vehicles shall be 8/years/100,000 miles and bidder shall indicate limitation of warranty due to voltage and amps. The warranty terms shall be stated where indicated on Attachment 3-A. Failure to provide this general information may result in the bid being rejected.

15. CURRENT PRODUCTS

All products supplied under this contract shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in the contract.

16. PRODUCT DISCONTINUANCE

In the event that a product or model is discontinued by the manufacturer, the Department at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request authorization to substitute a new product or model and provide the following:

1. A formal announcement from the manufacturer that the product or model has been discontinued.

2. Documentation from the manufacturer that names the replacement product or model.

3. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation.

4. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.

5. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.

17. CONTRACT ADMINISTRATION

The Contractor shall contact the assigned Procurement Officer for guidance or direction in matters of contract interpretation or questions regarding the terms, conditions or scope of the contract.

18. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called "Notices"), shall be in writing and shall be sent by certified United States mail, return receipt requested, or by any other method that provides evidence of receipt, addressed to the party or parties to receive such notice as follows:

A. If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1739 W. Jackson Street, MD 100P
Phoenix, Arizona 85007-3276

B. If intended for the Contractor, to the address as identified in the Contractor's electronic vendor profile. Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Transportation, Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

19. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

This contract may be cancelled if Contractor or any subcontractors or others in the employ or under the supervision of the Contractor or subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property.

Further, if the Contractor or any subcontractors or others in the employ or under the supervision of the Contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. § 13-1502, "Criminal trespass in the third degree; classification."

20. INDEMNIFICATION CLAUSE

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

21. INSURANCE REQUIREMENTS

21.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

21.2 The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way

warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

21.3 Minimum Scope and Limits of Insurance Contractor shall provide coverage with limits of liability not less than those stated below.

21.3.1 Commercial General Liability (CGL) – Occurrence Form

The Contractor shall furnish Certificate(s) of Insurance inclusive of the following requirements to the Department. Certificate(s) shall be received within 10 calendar days of notification of contract award by the Procurement Officer.

Policy shall include bodily injury, property damage, and broad form

contractual liability coverage.

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Damage to Rented Premises $50,000
- Each Occurrence $1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

21.3.2 Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- Combined Single Limit (CSL) $1,000,000

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving

automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

21.3.3 Workers' Compensation and Employers' Liability

• Workers' Compensation	Statutory
• Employers' Liability	
o Each Accident	$1,000,000
o Disease – Each Employee	$1,000,000
o Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

21.4 Additional Insurance Requirements The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

21.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

21.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

21.5 Notice of Cancellation Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

21.6 Acceptability of Insurers Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of

not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

21.7 Verification of Coverage Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

21.7.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

21.7.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

21.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

21.8 Subcontractors Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

21.9 Approval and Modifications the Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

21.10 Exceptions In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

22. USAGE REPORT

The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

23. CONTRACT ORDER OF PRECEDENCE

In the event of a conflict in the provisions of the Contract, as accepted by the Department and as they may be amended, the following shall prevail in the order set forth below:

- Federal Provisions
- Special Terms and Conditions
- Uniform Terms and Conditions
- Statement or Scope of Work
- Specifications
- Attachments
- Exhibits
- Special Instructions to Offerors
- Uniform Instructions to Offerors
- Other documents referenced or included in the Solicitation

24. LICENSES, PERMITS, CERTIFICATIONS

Contractor, at their expense, shall maintain in current status without any violations, complaints, or suspensions during the term of this contract all Federal, State and Local licenses, permits and certifications required for the operation of a business conducted by the Contractor.

25. CO-OP USAGE

Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

Contractor shall sell to Co-Op Buyers at the same price, and with the same lead times and other terms and conditions under which it sells to Eligible Agencies. With the sole exception of any legitimate additional costs for extraordinary shipping, or delivery requirements, if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).

Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

26. POST AWARD MEETING

At the discretion of the Department, the Contractor, at their expense, shall attend and participate in post award meetings as scheduled by the Procurement Officer.

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3. "*Contract Amendment*" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4. *"Contractor"* means any person who has a Contract with the State.

1.5. *"Days"* means calendar days unless otherwise specified.

1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8. "*Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona

Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

- Federal Provisions
- Special Terms and Conditions
- Uniform Terms and Conditions
- Statement or Scope of Work
- Specifications
- Attachments
- Exhibits
- Special Instructions to Offerors
- Uniform Instructions to Offerors
- Other documents referenced or included in the Solicitation

2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the

State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.

3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 Offshore Performance of Work Prohibited.
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if

applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3. Indemnification - Patent and Copyright**.** The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5. Compliance With Applicable Laws. The materials and services supplied under this

Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the

materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The

Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

FEDERAL PROVISIONS

1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The following provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220 available at: https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

The Federal Terms and Conditions under this Contract shall be incorporated in any sub-contractor, or lower-tier agreement for any federally-funded task assignment / project awarded under this Contract.

2. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Department and Contractor acknowledge and agree that, notwithstanding any concurrence b the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Department, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by Federal Funding Agency. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project.

Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) (5323(l)) on the Contractor, to the extent the Federal Government deems appropriate.

Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor shall - provide the Purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also , pursuant to 49 C. F. R. 633.15, provide authorized FTA representative including any PMO Contractor access to Contractor's records and construction sites pertaining to a capital project, defined at 49
U.S.C. 5302(a)1, which is receiving assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.15, Contractor shall provide the Purchaser, authorized FTA representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which receives FTA assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at
$250,000.00.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non- profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor shall provide the Purchaser, FTA, the US Comptroller General or their authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor shall retain, and shall require its subcontractors at all tiers, all books, records, accounts and reports required under this contract for a period of not less than five years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

5. TERMS OF THE MASTER AGREEMENT AND COMPLIANCE

Contractor shall at all times comply with all applicable Federal Funding Agency laws, regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, available at https://www.transit.dot.gov/funding/grantee-resources/sample-fta- agreements/fta-grant-agreements, between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. This Master Agreement does not have an Expiration Date. This Master Agreement continues to apply to the Recipient and its Underlying Agreement, until modified or superseded by a more recently enacted or issued applicable federal law, regulation, requirement, or guidance, or amendment to this Master Agreement or the Underlying Agreement. To assure compliance the Recipient must take measures to assure that other participants in its Underlying Agreements (*e.g.*, Third Party Participants) comply. Contractor's failure to so comply shall constitute a material breach of this contract.

All contractual provisions required by the U.S. Department of Transportation are hereby incorporated by reference. In the event of additional funding provided by FHWA, the applicable requirements of the Stewardship Agreement, available at https://www.fhwa.dot.gov/federalaid/stewardship, between the Department and FHWA are incorporated by reference.

6. CIVIL RIGHTS REQUIREMENTS

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply

with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

Equal Employment Opportunity

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex(including sexual orientation and gender identity), age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements Federal Funding Agency may issue.

2. Race, Color, religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

3. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

4. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42
   U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided, modified only if necessary to identify the affected parties.

7. TERMINATION

Termination of the contract shall be in accordance with the Uniform Terms and Conditions, Section 9., paragraph 9.1 through 9.6.

8. DEBARMENT OR SUSPENSION

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

a) Debarred from participation in any federally assisted Award;

b) Suspended from participation in any federally assisted Award;

c) Proposed for debarment from participation in any federally assisted Award;

d) Declared ineligible to participate in any federally assisted Award;

e) Voluntarily excluded from participation in any federally assisted Award; or

f) Disqualified from participation in ay federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Department, the

Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

8.1 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

The Contractor agrees to the following:

(1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:

(a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,

(b) It will review the U.S. GSA "System for Award Management," https://www.sam.gov, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and

(c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

(1) Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at https://www.sam.gov, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and

If the Department suspends, debars, or takes any similar action against a Third Party Participant or individual, the Department will provide immediate written notice to the:

(a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project,
(b) FTA Project Manager if the Project is

administered by an FTA Headquarters Office, or

(c) FTA Chief Counsel.

9. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER

POLLUTION CONTROL ACT Clean Water

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with FTA assistance.

Clean Air

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2) Contractor shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with FTA assistance.

10. BUY AMERICA

In any task assignment / project for construction, acquisition of goods, or rolling stock valued at more than $150,000, the contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than $150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 65% domestic content for FY2019 and a minimum 70% domestic content for FY2020 and beyond. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed a certification shall be rejected as

nonresponsive. This requirement does not apply to lower tier subcontractors.

11. BREACHES AND DISPUTE RESOLUTION

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the Department. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the Department. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Department shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Department and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Department or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

12. LOBBYING

The Contractor agrees to comply with the provisions of Title 31, U.S. C 1352 as

amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. 1601, et seq.] and (Public Law 101.121) as codified in Title 48, Federal Acquisition Regulations Subpart 3.8 and Subpart 52.203-11. The legislation prohibits Federal funds from being expended by a recipient or any lower tier sub- recipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the award of any Federal contract, the making of any Federal grant or loan, or entering into any cooperative agreement, including the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. All disclosure statements are to be furnished to the Department.

Contractors who apply or propose/bid for an award of $100,000 or more in value shall file the attached Lobbying Certification {01Lobbying Certification document} required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government- financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not
available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

14. ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

15. CONFLICTS OF INTEREST / EMPLOYMENT OF FEDERAL PERSONNEL

Contractors will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the Department or the Federal funding agency shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: The employee, officer or agent, any member of his immediate family, His or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. Department officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

16. COPYRIGHT AND PATENT

To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless ADOT against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of this contract performance or use by ADOT of materials furnished or work performed under this contract. ADOT shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

Copyrights pursuant to 23 CFR 420.121 (b): The Department, as a State DOT may copyright any books, publications, or other copyrightable materials developed in the course of the project, and does herein exercise that right. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

Patents pursuant to 23 CFR 420.121 (i): The Department, as a State DOT is subject to the provisions of 37 CFR part 401 governing patents and inventions and must include or cite the standard patent rights clause at 37 CFR 401.14, except for §401.14(g), in all subgrants or contracts. In addition, State DOTs must include the following clause, suitably modified to identify the parties, in all subgrants or contracts, regardless of tier, for experimental, developmental or research work: “The subgrantee or contractor will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subgrant or contract, obtain rights in the subgrantee's or contractor's subject inventions.”

Standard Patent Rights required pursuant to 37 CFR 401.14:

(a) Definitions

(1) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C.

2321 et seq.).

(2) Subject invention means any invention of the contractor conceived or first actually reduced to practice in the performance of work under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(3) Practical Application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) Small Business Firm means a small business concern as defined at section 2 of Pub. L. 85-536 (15
U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) Nonprofit Organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(7) The term statutory period means the one-year period before the effective filing date of a claimed invention during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

(8) The term contractor means any person, small business firm or nonprofit organization, or, as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

(b) Allocation of Principal Rights

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention

throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Contractor

(1) The contractor will disclose each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor.

(2) The contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. If the contractor files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. The contractor will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) For any subject invention with Federal agency and contractor co-inventors, where the Federal agency employing such co-inventor determines that it would be in the interest of the government, pursuant to 35 U.S.C. 207(a)(3), to file an initial patent application on the subject invention, the Federal agency employing such co-inventor, at its discretion and in consultation with the contractor, may file such application at its own expense, provided that the contractor retains the ability to elect title pursuant to 35 U.S.C. 202(a).

(5) Requests for extension of the time for disclosure, election, and filing under

paragraphs (1), (2), and (3) of this clause may, at the discretion of the Federal agency, be granted. When a contractor has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the Federal agency notifies the contractor within 60 days of receiving the request.

(d) Conditions When the Government May Obtain Title

The contractor will convey to the Federal agency, upon written request, title to any subject invention—

(1) If the contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(2) In those countries in which the contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the contractor shall continue to retain title in that country.

(3) In any country in which the contractor decides not to continue the prosecution of any non- provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Contractor and Protection of the Contractor Right to File

(1) The contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the contractor fails to disclose the invention within the times specified in (c), above. The contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the contractor is a party and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the sucessor of that party of the contractor's business to which the invention pertains.

(2) The contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the contractor, its licensees, or the domestic

subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Contractor Action to Protect the Government's Interest

(1) The contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph (c) of this clause, to assign to the contractor the entire right, title and interest in and to each subject invention made under contract, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) For each subject invention, the contractor will, no less than 60 days prior to the expiration of the statutory deadline, notify the Federal agency of any decision: Not to continue the prosecution of a non- provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a

post-issuance submission, and supplemental examination.

(4) The contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, “This invention was made with government support under (identify the contract) awarded by (identify the Federal agency). The government has certain rights in the invention.”

(g) Subcontracts

(1) The contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a subcontractor.. The subcontractor will retain all rights provided for the contractor in this clause, and the contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the agency may reasonably specify. The contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the contractor.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the contractor agrees that neither

it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

(1) Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Contracts with Nonprofit Organizations

If the contractor is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the contractor;

(2) The contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the contractor agrees that the Federal agency may review the contractor's licensing program and decisions regarding small business applicants, and the contractor will negotiate changes to its licensing policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the contractor could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4). In accordance with 37 CFR 401.7, the Federal agency or the contractor may request that the Secretary review the contractor's licensing program and decisions regarding small business applicants.

17. RECOVERED MATERIALS

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

18. SAFE OPERATION OF MOTOR VEHICLES

a. Seat Belt Use. The Recipient agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

(1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles, and

(2) Including a "Seat Belt Use" provision in each third party agreement related to the Award.

b. Distracted Driving, Including Text Messaging While Driving. The Recipient agrees to comply with:

(1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225),

(2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, and

(3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

(a) Safety. The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award,

(b) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving, and

(c) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34.b(3)(a) – (b) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

19. CERTIFICATION AND ASSURANCES

The FTA Certifications and Assurances are incorporated herein by reference. Upon award or contract renewal, the Contractor must agree to comply with the most current FTA Certifications and Assurances by signing and submitting the signature page provided by the Department. In the event FTA issues new Certifications and Assurances, the Department reserves the right to require submission of a new signature page agreeing to comply; to be added to the terms and conditions by Amendment. All such requests are a condition of continued award.

20. DISADVANTAGED BUSINESS ENTERPRISES

1.0 Policy:

The Arizona Department of Transportation (hereinafter the Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Department has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Department to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Department:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program; and
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.

It is also the policy of the Department to facilitate and encourage participation of Small Business Concerns (SBCs), as defined herein, in USDOT-assisted contracts. The Department encourages contractors to take reasonable steps to eliminate obstacles to SBCs' participation and to utilize SBCs in performing contracts.

2.0 Assurances of Non-Discrimination:

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Department deems appropriate, which may include, but are not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;

3. Liquidated damages;
4. Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding; and/or
5. Cancellation, termination, or suspension of the Contract, in whole or in part.

The contractor, subrecipient, or subcontractor shall ensure that all subcontract agreements contain this non-discrimination assurance.

3.0 Definitions:

(A) Commercially Useful Function (CUF): Commercially Useful Function is defined fully in 49 CFR 26.55, which definition is incorporated herein by reference.

(B) Disadvantaged Business Enterprise (DBE): a for-profit small business concern which meets both of the following requirements:

(1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(C) NAICS Code: The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

(D) Non-DBE: any firm that is not a DBE.

(E) Race-Conscious (RC): a measure or program focused specifically on assisting only DBEs, including women-owned DBEs.

(F) Race-Neutral (RN): a measure or program used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

(G) Small Business Concern (SBC): a business that meets all of the following conditions:

(1) Operates as a for-profit business registered to do business in Arizona;

(2) Operates a place of business primarily within the U.S., or makes a significant contribution to the U.S. economy through payment of taxes

or use of American products, materials, or labor;

(3) Is independently owned and operated;

(4) Is not dominant in its field on a national basis; and

(5) Does not have annual gross receipts that exceed the Small Business Administration size standards average annual income criteria for its primary North American Industry Classification System (NAICS) code.

(H) Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

(1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are enrolled members of federally or State recognized Indian tribe, Alaskan Natives or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) "Women;"

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business

Administration (SBA), at such time as the SBA designation becomes effective.

4.0 Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction. All proposers should contact the Department's Business Engagement and Compliance Office (BECO) by phone, through email, or at the address shown below, for assistance in their efforts to use DBEs in the highway construction industry. BECO contact information is as follows:

Arizona Department of Transportation Business Engagement and Compliance Office 1801 W. Jefferson St., Ste. 101, Mail Drop 154A
Phoenix, AZ 85007
Phone (602) 712-7761
FAX (602) 712-8429
Email: contractorcompliance@azdot.gov Website: www.azdot.gov/bec

4.01 Mentor-Protégé Program:

The Department has established a Mentor- Protégé program as an initiative to encourage and develop disadvantaged businesses in the highway construction industry. The program encourages prime contractors to provide certain types of assistance to certified DBE subcontractors. ADOT encourages contractors and certified DBE subcontractors to engage in a Mentor-Protégé agreement under certain conditions. Such an agreement must be mutually beneficial to both parties and to ADOT in fulfilling requirements of 49 CFR Part 23. For guidance regarding this program refer to the Mentor-Protégé Program Guidelines available on the BECO website.

The Mentor-Protégé program is intended to increase legitimate DBE activities. The program does not diminish the DBE rules or regulations, and participants may not circumvent these rules.

5.0 Applicability:

The Department has established an overall annual goal for DBE participation on Federal aid contracts. The Department intends for the goal to be met with a combination of race conscious efforts and race neutral efforts. Race conscious participation occurs when the contractor uses a percentage of DBEs, as defined herein, to meet the contract specified goal. Race neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race neutral as when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract

on a prime contract that does not carry a DBE contract goal.

Prime contractors are encouraged to obtain DBE participation even if a DBE goal was not established on a contract.

The DBE provisions are applicable to all contractors including DBE contractors.

6.0 Certification and Registration:

6.1 DBE Certification:

Certification as a DBE shall be predicated on:

(1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".

(2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.

(3) The submission of any additional information which the Department or the applicable Arizona Unified Certification (UCP) agency may require to determine the firm's eligibility to participate in the DBE program.

(4) The information obtained during the on-site visits to the offices of the firm and to active job-sites.

Applications for certification may be filed online with the Department or the applicable UCP agency at any time through the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) website at http://www.azutracs.com.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

ADOT is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at http://www.azutracs.com/. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification of a DBE is not a representation of qualifications and/or abilities nor does it mean that a DBE firm is guaranteed or entitled to receive or be awarded a contract. Being certified simply means that a firm has met the criteria for

DBE certification as outlined in 49 CFR Part 26. The contractor bears all risks of ensuring that DBE firms selected by the contractor are able to perform the work.

6.2 SBC Registration:

To comply with 49 CFR Part 26.39, ADOT's DBE Program incorporates contracting requirements to facilitate participation by Small Business Concerns (SBCs) in federally assisted contracts. SBCs are for- profit businesses authorized to do businesses in Arizona that meet the Small Business Administration (SBA) size standards for average annual revenue criteria for its primary North American Industry Classification System (NAICS) code.

While the SBC component of the DBE program does not require utilization of goals on projects, ADOT strongly encourages contractors to utilize small businesses that are registered in AZ UTRACS on their contracts, in addition to DBEs meeting the certification requirement. The contractor may use the AZ UTRACS website to search for certified DBEs and registered SBCs that can be used on the contract. However, SBCs that are not DBEs will not be counted toward DBE participation.

SBCs can register online at the AZ UTRACS website.

The Department's registration of SBCs is not a representation of qualifications and/or abilities nor does it mean that an SBC firm is guaranteed or entitled to receive or be awarded a contract. Being SBC registered simply means that a firm has met the criteria for SBC registration as outlined in 49 CFR Part
26. The contractor bears all risks of ensuring that SBC firms selected by the contractor are able to perform the work.

7.0 DBE Financial Institutions:

The Department thoroughly investigates the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its service area and makes reasonable efforts to use these institutions. The Department encourages prime contractors to use such institutions on USDOT assisted contracts. However, use of DBE financial institutions will not be counted toward DBE participation.

The Department encourages prime contractors to research the Federal Reserve Board website at www.federalreserve.gov to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center database.

8.0 Time is of the Essence:

TIME IS OF THE ESSENCE IN RESPECT TO THE DBE PROVISIONS.

9.0 Computation of Time:

In computing any period of time described in this DBE special provision, such as calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal or State holiday. In circumstances where the Department's offices are closed for all or part of the last day, the period extends to the next day on which the Department's offices are open.

10.0 Contractor and Subcontractor Requirements:

10.1 General:

Each contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

10.2 DBE Liaison:

The contractor shall designate a DBE Liaison responsible for the administration of the contractor's DBE program. The name of the designated DBE Liaison shall be included in the DBE Intended Participation Affidavit Summary.

11.0 DBE Goals

The Department has not established contract goals for DBE participation in this contract.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The contractor is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

11.1 Race Neutral Contract (With No DBE Goal)

The Department has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. ADOT has received federal financial assistance from the USDOT and as a condition of receiving this assistance, ADOT has signed an assurance that it shall comply with 49 CFR Part 26.

It is ADOT's policy to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in federally-funded contracts.

NO CONTRACT DBE GOAL HAS BEEN ESTABLISHED FOR DBE PARTICIPATION ON THIS CONTRACT.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The consultant is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

12.0 Bidders/Proposers List and AZ UTRACS Registration Requirement:

Under Title 49 CFR of the Code of Federal Regulations, Part 26.11, DOTs are required to collect certain information from all contractors and subcontractors who seek to work on federally-assisted contracts in order to set overall and contract DBE goals. ADOT collects this information when firms register their companies on the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) web portal at http://www.azutracs.com/ a centralized database for companies that seek to do business with ADOT. This information will be maintained as confidential to the extent allowed by federal and state law.

Prime contractors and all subcontractors, including DBEs listed in the offer must be registered in AZUTRACS. Proposers may verify that their firm and each subcontractor is registered using the AZUTRACS website.

Proposers may obtain additional information at the AZ UTRACS website or by contacting BECO.

All proposers shall create a Bidders/Proposers list in the AZ UTRACS by selecting all firms, service providers, and vendors that expressed interest or submitted proposals or quotes for this contract. The Bidders/Proposers List form must be complete and must include the names for all subcontractors, service providers, and vendors that submitted proposals or quotes on this project regardless of the proposer's intentions to use the those firms on the project.

All proposers must complete and submit the Bidders/Proposers List online at AZ UTRACS prior to Offer submittal. A confirmation email will be generated by the system. This email confirmation shall be submitted with the Offer.

13.0 Payment Reporting:

The contractor shall report on a monthly basis indicating the amounts paid to all subcontractors, of all tiers, working on the project. Reporting shall be in accordance with below.

Subcontracts:

a. Sub-Contract Terms:

1. The Contractor agrees to execute a written Contract with all Subcontractors for work to be completed under this Contract. The executed Contract shall include Subcontractor's Scope of Work and all the Uniform Terms and Conditions set forth in this Contract.

2. The Contractor shall provide electronic copies of signed subcontract agreements with all Subcontractors to ADOT Business Engagement and Compliance Office (BECO) by uploading them to the BECO's online DBE Contract & Labor Compliance Management System (**DBE System**) at https://adot.dbesystem.com. Subcontract agreements shall include all required assurances and required clauses as outlined in this Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.

3. The Contractor may be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department.

b. Sub-Contract Payments

1. Retention: If the prime contract does not provide for retention, the contractor and each subcontractor of any tier shall not withhold retention on any subcontract. If the prime contract provides for retention, the prime contractor and each subcontractor of any tier shall not retain a higher percentage than the Department may retain under the prime contract. Retainage shall be paid to the subcontractor within 7 days of satisfactory completion of the work performed by the subcontractor.

2. No Set-offs Arising from Other Contracts: If a subcontractor is performing work on multiple contracts for the same contractor or subcontractor of any tier, the contractor or subcontractor of any tier shall not withhold or reduce payment from its subcontractors on the contract because of disputes or claims on another contract.

3. Partial Payment: The contractor and each subcontractor of any tier shall make prompt partial payments to its subcontractors within seven days of receipt of payment from the Department. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.

4. Final Payment: The contractor and each subcontractor of any tier shall make prompt final payment to each of its subcontractors. The contractor and each subcontractor of any tier shall pay all monies, including retention, due to its subcontractor within seven days of receipt of payment. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.

5. Payment Reporting: For the purposes of this subsection "Reportable Contracts" means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any

tier with a DBE material or service supplier.

The requirements of this subsection apply to all Reportable Contracts.

Payment Reporting for all Reportable Contracts shall be done through the Department's web- based DBE System. The DBE System can be accessed from the Department's BECO website. No later than fifteen calendar days after the Notice to Proceed is issued, the contractor shall log into the Department's web based DBE System and enter or verify the name, contact information, and subcontract amounts for Reportable Contracts on the project. As Reportable Contracts are approved over the course of the contract, the contractor shall enter them in the system. Reportable contracts shall be entered into the system no later than five calendar days after approval by the Department.

The contractor shall report on a monthly basis indicating the amounts actually paid and the dates of each payment under any Reportable Contract on the project. In addition, the contractor shall require that all participants in any Reportable Contract electronically verify receipt of payment on the contract by the last day of the month and the contractor shall actively monitor the Department's DBE System to ensure that the verifications are input. The contractor shall proactively work to resolve any payment discrepancies in the DBE System between payment amounts it reports and payment confirmation amounts reported by others.

The contractor shall ensure that all Reportable Contract activity is reported to the Department. This includes all lower-tier Reportable Contracts, regardless of whether a DBE is involved or not.

The contractor shall maintain records for each payment explaining the amount requested by the subcontractor, and the amount actually paid pursuant to the request, which may include but are not limited to, estimates, invoices, pay requests, copies of checks or wire transfers, and lien waivers in support of the monthly payments in the DBE System.

The contractor shall provide information for payments made on all Reportable Contracts during the previous month by the 15th day of the current month. In the event that no payments were made during a given month, the contractor shall identify that by entering a dollar value of zero. If the contractor does not pay the full amount of any invoice from a subcontractor, the contractor shall note that and provide the reasons in the comment section of the Monthly Payment Audit of the DBE System.

For each Reportable Contract on which the contractor fails to submit timely payment information the Department will retain $1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non- reporting, the liquidated damages will increase to $2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages

shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

Payment reporting requirements apply to all contracts, federal and non-federal funded.

The contractor shall ensure that a copy of this Subsection is included in every Reportable Contract of every tier.

(a) Sanctions for Inadequate Reporting:

For each Reportable Contract on which the contractor fails to submit timely and complete payment information the Department will retain $1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to $2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

6. Completion of Work: A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted by the Department.

7. Disputes: If disputes arise regarding payment of subcontractors, the contractor shall immediately provide the ADOT Project Manager with a written, verifiable explanation if:

   - The contractor does not pay the full amount of any invoice from a subcontractor within seven days of receipt of a progress payment from the Department, or
   - The monthly estimate does not include all work claimed by a subcontractor to have been performed.

   The Department will determine whether the contractor has acted in good faith concerning any such explanations. The Department reserves the right to request and receive documents from the contractor and all subcontractors of any tier, in order to determine whether termination requirements were met. The contractor shall implement and use the dispute resolution process outlined in the subcontract, as described in Uniform Terms and Conditions Paragraph, to resolve payment disputes.

8. Non-Compliance: Failure to make prompt partial payment or prompt final payment including any retention, within the time frames established in this contract, will result in remedies, as the Department deems appropriate, which may include, but are not limited to:

   - Liquidated Damages: These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the

contract.

(i) The Department will withhold two times the disputed dollar amount not paid to each subcontractor.
(ii) If full payment is made within 30 days of the Department's payment to the contractor, the amount withheld by the Department will be released.
(iii) If full payment is made after 30 days of the Department's payment to the contractor, the Department will release 75 percent of the funds withheld. The Department will retain 25 percent of the monies withheld as liquidated damages.

- Additional Remedies: If the contractor fails to make prompt payment for three consecutive months, or any four months over the course of one project, or if the contractor fails to make prompt payment on two or more contracts within 24 months, the Department may, in addition, invoke the following remedies:

(i) Withhold monthly progress payments until the issue is resolved and full payment has been made to all subcontractors and vendors subject to the requirements outlined under "Liquidated Damages" above,
(ii) Terminate the contract for default in accordance with this Contract, and/or
(iii) Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding temporarily or permanently, depending on the number and severity of violation.
(iv) Reflect the contractor's performance in submitting payment reports and making subcontractor payments utilizing the Department's Vendor Performance Report.

14.0 Crediting DBE Participation:

14.01 General Requirements:

To count toward DBE participation, the DBE firms must be certified at the time of Offer submission in each NAICS code applicable to the kind of work the firm will perform on the contract. NAICS for each DBE can be found on the AZ UTRACS website. General descriptions of all NAICS codes can be found at http://www.naics.com/search/.

Credit is given only after the DBE has been paid for the work performed.

The entire amount of a contract that is performed by the DBE's own forces, including the cost of supplies and materials purchased by the DBE for the work on the contract and equipment leased by the DBE will be credited toward DBE participation. Supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate will not be credited toward DBE participation.

The contractor bears the responsibility to determine whether the DBE possesses the

proper contractor's license(s) to perform the work and, if DBE credit is requested, that the DBE subcontractor is certified for the requested type of work.

The Department's certification is not a representation of a DBE's qualifications and/or abilities. The contractor bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime contractor, subcontractor, or as a vendor of materials or supplies. The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

The contractor may credit second-tier subcontracts issued to DBEs by non-DBE subcontractors. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

A prime contractor may credit the entire amount of that portion of a contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE participation.

A prime contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consulting, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

14.02 DBE Prime Contractor:

When a certified DBE firm proposes on a contract/Task Assignment all the work that is performed by the DBE contractor or any other DBE subcontractors and DBE suppliers will count toward DBE participation.

14.03 Effect of Loss of DBE Eligibility:

For On-Call Task Assignment contracts, if a DBE is deemed ineligible (decertified) or suspended by ADOT or one of its UCP Partner Agencies in accordance with 49 CFR 26.87 and 26.88, the DBE may not be count toward DBE participation on a new Task Assignment, but may be considered for the contract/Task Assignment DBE participation if a subcontract or contract modification for the work to be completed on the Task Assignment was executed before the DBE suspension or decertification is effective.

A subcontract or contract modification for work on the task assignment means, any subcontract or agreement for the task assignment, which includes a specific ADOT TRACS/Project Number, defined scope, duration and budget for the work to be completed under the Task Assignment that is duly signed by the contractor/contractor and subcontractor/subcontractor.

When the contractor/contractor intents to use an ineligible DBE firm or ADOT made a commitment to use an ineligible DBE prime contractor/contractor, but a subcontract or Contract Modification for the work to be completed on the Task Assignment has not been executed before a decertification notice is issued to the DBE firm by its certifying agency, the ineligible firm does not count toward DBE participation. When a subcontract or contract modification is executed with the DBE firm for the work to be completed on the Task Assignment before ADOT notified the firm of its ineligibility, the DBE's work on the Task Assignment may continue to be credited toward DBE participation for the firm's work.

14.04 Notifying the Contractor of DBE Certification Status:

Each DBE contract at any tier shall require any DBE subcontractor or supplier that is either decertified or certified during the term of the contract to immediately notify the contractor and all parties to the DBE contract in writing, with the date of decertification or certification. The contractor shall require that this provision be incorporated in any contract of any tier in which a DBE is a participant.

14.05 Commercially Useful Function:

A prime contractor can credit expenditures to a DBE subcontractor only if the DBE performs a Commercially Useful Function (CUF).

A DBE performs a CUF when it is responsible for execution of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself that it uses on the project. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually

performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The Department will determine if the firm is performing a CUF given the type of work involved and normal industry practices.

The Department will notify the contractor, in writing, if it determines that the contractor's DBE subcontractor is not performing a CUF. The contractor will be notified within seven calendar days of the Department's decision.

Decisions on CUF may be appealed to the Chief Procurement Officer (CPO). The appeal must be in writing and personally delivered or sent by certified mail, return receipt requested, to the CPO. The appeal must be received by the CPO no later than seven calendar days after the decision of BECO. BECO's decision remains in place unless and until the CPO reverses or modifies BECO's decision. CPO will promptly consider any appeals under this subsection and notify the contractor of CPO's findings and decisions. Decisions on CUF matters are not administratively appealable to USDOT.

The BECO may conduct project site visits on the contract to confirm that DBEs are performing a CUF. The contractor shall cooperate during the site visits and the BECO's staff will make every effort not to disrupt work on the project.

15.0 Required Provisions for DBE Subcontracts:

All subcontracts of any tier, all supply contracts, and any other contracts in which a DBE is a participant shall include as a physical attachment, DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits.

Contractors executing agreements with subcontractors, DBE or non-DBE, that materially modify federal regulation and state statutes such as, prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such

remedy as the deemed appropriate as outlined in DBE Subsection 2.0 of these DBE provisions.

The Department reserves the right to conduct random reviews of DBE and non-DBE subcontract documentation to ensure compliance with federal requirements.

The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontracts be performed in accordance with 49 CFR Part 26 provisions.

The Contractor shall provide electronic copies of subcontract agreements with all Subcontractors by uploading them within 15 calendar days of an executed contract to the ADOT DBE System. Subcontract agreements shall include all required assurances and clauses as outlined in DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits of the Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.

The Contractor shall be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department

16.0 Certification of Final DBE Payments:

DBE participation on the contract is measured by actual payments made to the DBEs. The contractor shall submit the “Certification of Final DBE Payments” form for each DBE firm working on the contract. This form shall be signed by the contractor and the relevant DBE, and submitted to the Engineer no later than 30 days after the DBE completes its work.

The contractor will not be released from the obligations of the contract until the ”Certification of Final DBE Payments” forms are received and deemed acceptable by the Engineer and BECO.

17.0 False, Fraudulent, or Dishonest Conduct:

In addition to any other remedies or actions, the Department will bring to the attention of the US Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take steps such as referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General for possible initiation of suspension and debarment proceedings against the offending parties or application of “Program Fraud and Civil Penalties” rules provided in 49 CFR Part 31.

21. NONDISCRIMINATION

1. During the performance of this Contract, the Consultant, for itself, its Subconsultants, assignees and successors shall:

   a. Not discriminate on the basis of race, color, national origin, or sex and shall carry out applicable requirements of 49 CFR Part 26 in the performance of this Contract. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract, disqualification from proposing on other Contracts or other remedy as the State deems appropriate.

   b. Comply with Executive Order 2009-09, "Prohibition of Discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this Contract.

   c. Comply with the provisions of Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). Said provisions are made applicable by reference and are hereinafter considered a part of this Contract.

   d. Post in conspicuous places available to employees and applicants for employment, the following notice:

      "It is the policy of this company not to discriminate against any employee, or applicant for employment, because of race, color, religion, creed, national origin, sex, age, handicapped, or disabled veterans and Vietnam era veterans. Such actions shall include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising; laying- off or termination; rates of pay or other compensation; and selection for training, and on-the- job training. Also, it is the policy to ensure and maintain a working environment free of harassment, intimidation and coercion."

   e. Comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the
      U.S. Department of Transportation (hereinafter USDOT), 49 CFR Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

   f. Not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or

indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

g. In all solicitations either by competitive bidding or negotiations made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, notify each potential Subconsultant or supplier of the Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, or national origin.

h. Provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State as appropriate, and shall set forth what efforts it has made to obtain the information.

2. In the event of the Consultant's noncompliance with the NONDISCRIMININATION provision (Section A) of this Contract, the State shall impose such Contract sanctions as the State or FHWA may determine to be appropriate, including but not limited to:

   a. Withholding of payments to the Consultant under the Contract until the Consultant complies,

   and/or;

   b. Cancellation, termination, or suspension of the Contract, in whole or in part.

3. The Consultant shall include the provisions of paragraph 1.a. through 1.h. in every subcontract with Subconsultants, DBEs and non-DBEs, including procurement of materials and equipment leases, unless exempt by the Regulations or directives issued pursuant thereto.

4. The Consultant shall take such action with respect to any Subconsultants or procurement as the State or the Federal Aviation Administration (FAA), FHWA and the Federal Transit Administration (FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in or is threatened with litigation with a Subconsultant or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State, and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

22. AFFIRMATIVE ACTION

Contractor shall take the following affirmative action steps with respect to securing supplies, equipment, or services under the terms of this contract:

a. Include qualified firms owned by socially and economically disadvantaged individuals on solicitation lists.

b. Assure that firms owned by socially and economically disadvantaged individuals are solicited whenever they are potential sources.

c. When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum participation by firms owned by socially and economically disadvantaged individuals.

d. Where the requirement permits, establish delivery schedules which will encourage participation by firms owned by socially and economically disadvantaged individuals.

e. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, and the Community Services Administration, as required.

23. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed

with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

24. FEDERAL CHANGES

The Contactor and its sub-contractors shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

25. PROMPT PAY

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

26. FULL AND OPEN COMPETITION

In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be

conducted in a manner that provides full and open competition.

27. PROHIBITION AGAINST EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

28. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

29. ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy.

Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

30. NOTIFICATION OF FEDERAL PARTICIPATION

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of $500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

31. INTEREST OF MEMBERS OR DELEGATES TO CONGRESS

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

32. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors (https://www.sam.gov/SAM/) for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

33. OTHER CONTRACT REQUIREMENTS

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the Department.

34. COMPLIANCE WITH FEDERAL REGULATIONS

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT- required contractual provisions, as set forth in FTA Circular 4220, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

35. REAL PROPERTY

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by Map-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

36. ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP)

Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

37. ENVIROMENTAL JUSTICE

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42
U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

38. ENVIRONMENTAL PROTECTIONS

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

39. GEORGRAPHIC INFORMATION RELATED TO SPATIAL DATA

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

40. GEOGRAPHIC PREFERENCE

Pursuant to 2 CFR 200.319(b), all procurements must be conducted in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract).

41. ORGANIZATIONAL CONFLICTS OF INTEREST

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows:

(1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:

(a) To that Third Party Participant or another Third Party Participant performing the Project work, and
(b) That impairs that Third Party Participant's objectivity in performing the Project work, or

(2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,

(3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:

(a) Any instances of organizational conflict of interest, or
(b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and

(4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

42. VETRANS PREFERENCE

As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

(1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
(2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

43. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) IDENTIFICATION NUMBER

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

44. AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

45. BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency."

46. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

44. BUS TESTING

The operator of the bust testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus

model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the Agency during the point in the procurement process specified by the Agency, but in all cases before final acceptance of the first bus by the Agency. The complete bus testing report requirements are provide in 49 C.F.R. § 665.11.

45. CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and

c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

46. E-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

EXHIBIT 1
Title VI/Non-Discrimination Assurances
Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the *Federal Highway Administration,* as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *Federal Highway Administration* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *Federal Highway Administration,* as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration* ,may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient or the *Federal Highway Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that **if** the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT 2
Title VI/Non-Discrimination Assurances
Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.,* 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin): and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *etseq.),* (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.),* (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et. seq).

ADOT
Procurement

EXHIBIT 3
ADOT Procurement Quarterly Usage Report

This exhibit outlines the content required for the quarterly usage report. Usage reports will be submitted to the appropriate Procurement Officer in accordance with the requirements specified in Special Terms and Conditions. The Department reserves the right to make additions, deletions and changes as deemed necessary.

Reporting Period:

Contract ID/Code:		Contact Name:		Alternate Contact Name:	
Contract Label/Description:		Contact Phone Number:		Alternate Contact Phone Number:	
Contractor:		Contact Email:		Alternate Contact Email:	
Contractor Address:					

Agency/Org/Unit	Customer Name	Delivery Address	PO Number or Identify as "P-Card"	Order Date	Contract Item Number	Contract Item Description	Quantity	Unit of Measure	Contract Unit Price	Contract Extended Price	Invoice Number

EXHIBIT 4
ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Post-Delivery purchaser's requirement, in compliance with the federal requirements of 49 U.S.C. Section 5323(m))

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 10 vehicles for areas >200,000 in population)

As required by 49 CFR Part 663Subpart C, the

_____
(Recipient's name)

Certifies that a resident inspector,

_____
(Name of inspector)

Was at

_____
(the manufacturer's)

manufacturing site during the period of manufacture of the buses,

_____
(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 20 vehicles for areas < 200,000 in population)

As required by 49 CFR Part 663 Subpart C, the

_____
(Recipient's name)

Certifies that a resident inspector,

_____
(Name of inspector)

Was at

_____
(the manufacturer's)

manufacturing site during the period of manufacture of the buses,

_____
(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

Signature _____ Date _____/ _____/ _____
Title _____

EXHIBIT 5
PRE-AWARD AUDIT AND CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
PRE-AWARD AUDIT (before issuing purchase order)		
Pre-award audit requirements. A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.		Master Agreement; 49 CFR §663.21
49 CFR 661.13 Grantee Responsibility (a) The grantee shall adhere to the Buy America clause set forth in its grant contract with FTA Section 16. Preference for United States Products and Services. a. Buy America. Domestic preference procurement requirements of: (1) 49 U.S.C. § 5323(j), as amended by FAST Act, and (2) FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with FAST Act,		49 CFR §663.13
49 CFR §663.23 Description of pre-award audit. A pre-award audit under this part includes— (a) A Buy America certification as described in §663.25 of this part; (b) A purchaser's requirements certification as described in §663.27 of this part; and (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in §663.41 or §663.43 of this part.		49 CFR §663.23
Met? Y/N (if NO 1b, 1 REQ'D)	(1) A Buy America certification:	49 CFR §663.25
	a) There is a letter from FTA which grants a waive OR	
Met? Y/N (if NO 1a, 2 REQ'D)	b) ADOT reviewed documentation provided by the manufacturer which lists—	
	1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and	
	2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.	
Met? Y/N (2 REQ'D)	(2) A purchaser's requirements certification:	49 CFR §663.27
	a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and	
	b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's	
Met? Y/N (1 REQ'D)	(3) A manufacturer's Federal Motor Vehicle Safety certification or Certification that Federal motor vehicle standards do not apply.	
	a) If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	49 CFR §663.41
	a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer.	49 CFR §663.43

EXHIBIT 6
PURCHASER'S PRE-AWARD REQUIREMENTS CERTIFICATION

Subrecipient	
Description	
Program/Phase/Amounts	

Purchaser's Pre-Award Requirements Certification
49 CFR §663.27

I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and

I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's

Signature

Date Signed

EXHIBIT 7
PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation_law/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis' (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; **or**	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; **and**	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 7
PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation_law/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis' (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; **or**	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; **and**	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 8
PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient	
Description	
Program/Phase/Amounts	

Purchaser's Post-Award Requirements Certification
49 CFR §663.37

I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and

I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's

Signature

Date Signed

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: One (1)**
DESCRIPTION: New Vehicles Purchase	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. The solicitation due date has been changed from January 17, 2022 at 3:00 PM MST to January 19, 2022 at 3:00 PM MST.

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Two (2)**
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. **Specifications**
   The following sections are hereby modified to read:

   a. **Paragraph 2.1** "The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures."
   b. **Paragraph 3.3.1, 3.5.1 and 3.5.2** is hereby removed.
   c. **Paragraph 4.1**: "The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency."
   d. **Paragraph 4.1.1** is hereby removed.
   e. **Paragraph 4.4.1:"** The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency. "
   f. **Paragraph 4.6.1**: " Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW."

2. **Special Terms and Conditions**

   The following sections are hereby modified to read:

   a. Paragraph 11.1, (a-g): "Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.
      a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Three (3)**
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. **Specifications**
   The following sections are hereby modified to read:

   a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."

   b. **Paragraph 3.10**: "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

ADOT
Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Two (2)**
DESCRIPTION: New Vehicles Purchases	

b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.

f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.

g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order. "

b. Paragraph 22 is hereby replaced with the following: "The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee"

c. Paragraph 25: Co-op administrative fee has hereby been removed.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Two (2)**
DESCRIPTION: New Vehicles Purchases	

3. **Offer Response Form** is hereby replaced with Revision Two (2) attachment.

4. All other terms, conditions and provisions of this solicitation remain unchanged.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Three (3)**
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. **Specifications**
   The following sections are hereby modified to read:

   a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."

   b. **Paragraph 3.10**: "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1655 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Contract Amendment Summary

CONTRACTOR: Courtesy Chevrolet	**AMENDMENT NO.: One (1)**
DESCRIPTION: New Vehicle Purchases	

Pursuant to the Uniform Terms and Conditions, Section 5, Contract Changes, the above referenced contract is amended. Summary of changes is as follows:

1. Amendment One (1) to mutually extend this contract from March 17, 2023 through March 16, 2024, unless terminated, canceled or extended as otherwise provided in the contract.

2. All other terms, conditions and provisions of this contract remain unchanged.

ADOT
Procurement

Offer Response Form for New Vehicle Purchases Revision Two (2)

Please respond to the following items according to the instructions below. Each response should demonstrate the Offeror's ability to satisfy the Specifications requirements. Failure to respond may negatively impact the option to award.

1.1. The Contractor shall provide the goods/services described in any or all of the contract categories. Indicate the categories that apply to your offer:

- ◉ **Category One: Phase One (1) Vehicle Purchases**
- ◉ **Category Two: Phase Two (2) Vehicle Purchases**
- ◉ **Category Three: FTA Funded Vehicles**

1.2 PHASE ONE (1) Pricing for New Vehicle Purchases: Price List: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the time of Proposal submittal.* Do not provide pricing on any other format other than what is provided below:

Phase One (1) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Malibu/Spark/Bolt	10%
Silverado	14%
SUV	10%
Express	10%
4500/5500	10%
Low Cab Forward (LCF)	20%

1.3 PHASE TWO (2) Pricing for New Vehicle Purchases: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the*

time of Proposal submittal. Do not provide pricing on any other format other than what is provided below:

Phase Two (2) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Phase Two	
Cars	3%
Silverado	5%
SUV	1%
Express Vans	3%
4500/5500	5%
Low Cab Forward	10%

1.4 Delivery Fees: If the contractor offers delivery for the following counties, they must be indicate and include any delivery fee associated with those areas as applicable.

County	Delivery Fee $	County	Delivery Fee $	County	Delivery Fee $
Apache	325	Greenlee	375	Pima	250
Cochise	300	La Paz	300	Pinal	225
Coconino	200	Maricopa	0	Santa Cruz	325
Gila	275	Mohave	300	Yavapai	225
Graham	375	Navajo	350	Yuma	300

1.5 Evaluation Pricing: The Contractor shall submit pricing for the following Vehicles. The vehicles listed which is representative of the scope of work that will be performed under this Contract, and therefore constitutes a fair method for determining price fair and reasonable:

1.5.1 Phase One (1) Evaluation Pricing:

Estimated Usage Quantity	PHASE ONE (1) Base Model Vehicle	Base Price for Phase One (1)	Additional Information
75	Sports Utility Vehicle (SUV) *(base model)* Per Minimum Specifications	$20,940 plus tax	2022 Chevrolet Trax LS
25	One (1) Ton Cargo Van *(base model)* Per Minimum Specifications	$25,860.00 plus tax	2022 1 Ton Express Cargo
50	1/2 Ton Truck Regular Cab *(base model)* Per Minimum Specifications	$21.812.00 plus tax	2022 Silverado 1500 Reg Cab

Offer Response Form for New Vehicle Purchases
Revision Two (2)

1.5.2. Phase Two (2) Evaluation Pricing:

Estimated Usage Quantity	PHASE TWO (2) Base Model Vehicle	Base Price for Phase TWO (2)	Additional Information
25	Sports Utility Vehicle (SUV) *(base model)* Per Minimum Specifications	$22,106.00 plus tax	2022 Chevrolet Trax
15	One (1) Ton Cargo Van *(base model)* Per Minimum Specifications	$26,698.00 plus tax	2022 1 Ton Express Cargo
25	1/2 Ton Truck Regular Cab *(base model)* Per Minimum Specifications	$21,812.00 plus tax	2022 1500 Reg Cab

9. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Eli Reisner, Project Manager - ER
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Construction Manager at Risk Construction Services Agreement with Eagle Mountain Construction, Inc. for the Grandview Utilities and Wedge Clearing portion of the Spruce Wash Flood Mitigation Suite of Projects.

STAFF RECOMMENDED ACTION:

1. Approve the Construction Manager at Risk Construction Services Agreement with Eagle Mountain Construction for a Guaranteed Maximum Price (GMP1) in the amount of $2,906,383.00 and a contract duration of 845-calendar days;
2. Approve an Owners Contingency of $50,000.00, which is 2% of the Guaranteed Maximum Price; and
3. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Staff recommends approval of the Construction Manager at Risk (CMAR) Construction Services Agreement (Agreement) for a Guaranteed Maximum Price (GMP1) in the amount of $2,906,383.00 and an Owners Contingency of $50,000.00 for a Total Contract Price of $2,956,383.00 to Eagle Mountain Construction, Inc. (EMC). This will authorize the construction of the utilities portion of the Grandview Project and the clearing portion of the Wedge Project and initiate the construction of the Spruce Wash Flood Mitigation Suite of Projects. This is the first GMP for the Spruce Wash Flood Mitigation Suite of Projects and the remaining Projects will be presented for Council's consideration in early 2024 with a second GMP added as an amendment to this original Agreement. Please refer to the attached context and vicinity maps.

The underground utilities portion of the Grandview Project generally consist of replacing and lowering the existing underground water and sewer infrastructure prior to the construction of the inverted crown and vertical curbs on Grandview Drive from Cedar Avenue to Linda Vista and the associated side-streets to increase stormwater capacity of the roadway. These lowered and replaced underground utilities will include water and sewer mains, water and sewer services, and fire hydrants. The associated roadway improvements will be constructed at a later date. Underground conduit for fiberoptic, communications, and electric will not be included in this project as the location is not within the City of Flagstaff's Broadband Infrastructure Master Plan, Franchise Utility Companies do not have plans or funds to relocate infrastructure underground into the roadway, and additional funding is not available to upgrade the existing streetlight infrastructure. The improvements with the clearing of the Wedge Project generally consist of removing trees in the footprint of the detention basin for the Wedge Project and preparing the area to be used as a temporary construction yard for the Spruce Wash Flood Mitigation Suite of Projects.

Pending Council approval, construction of Grandview Utilities and Wedge Clearing is anticipated to begin following the 2023 monsoon season. The 845-calendar day duration is anticipated to cover the construction duration of the entire Suite of Projects spanning over three construction seasons and targeting completion in the fall of 2025. The Phase II Feasibility Study and final stormwater modeling was completed in early June of 2023. Design is still underway on the remaining Suite of Projects and is anticipated to be completed in December of 2023. Scheduling and construction sequencing of the Suite of Projects will be determined as design progresses.

Financial Impact:

The Grandview Utilities portion of the Grandview project is funded by the FY24 budget appropriations of $5,853,826 from the Grandview budget line item under the Proposition 441 Funds in account number 410-08-385-3527-3. The Wedge Clearing portion of the Wedge project is funded by the FY24 budget appropriations of $5,985,470 from The Wedge budget line item under the Proposition 441 Funds in account number 410-08-385-3570-3.

Policy Impact:

No impact.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe & Healthy Community: Ensure the built environment is safe through the use of consistent standards, rules & regulations, & land use practices

Sustainable, Innovative Infrastructure: Deliver outstanding services to residents through a healthy, well maintained infrastructure system. Utilize existing long-range plan(s) that identify the community's future infrastructure needs & all associated costs

Carbon Neutrality Plan

IR-2: Ensure equity, accessibility, and inclusion across all City of Flagstaff Parks and Recreation facilities, helping all members of the Flagstaff community to meet their health and wellness needs.
WS-1: Improve water infrastructure and expand water reuse.

Regional Plan

Goal WR.5: Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.

Has There Been Previous Council Decision on This:

Council previously approved the ballot language for the November 2022 voter approved Proposition 441 Wildfire, Flood, and Wastewater Infrastructure Bond, which dedicated $26 million towards flood mitigation projects.

Options and Alternatives:

1. Approve the award for the Agreement as recommended. Approval will allow work to move forward; or,
2. Reject approval of the award as recommended. This action would delay the Project
    a. If rejection occurs, possible options include:
        i. Ask staff to re-evaluate the recommendation; or
        ii. Suspend or cancel the project completely.

Background/History:

On July 21, 2019, the Museum Fire broke out in the Dry Lake Hills area just above Flagstaff within the Coconino National Forest. The fire ultimately charred 1,961 acres, including a significant portion of the Spruce Wash Watershed. Flood modeling subsequently showed potential flood risk to neighborhoods in Coconino County and the City of Flagstaff. Throughout the summer of 2021, unprecedented rain events impacted the Museum burn scar and caused multiple rounds of flash flooding in Flagstaff neighborhoods.

In the November 2022 election, voters approved Proposition 441 with support from 76% of Flagstaff voters. The Proposition invests $57 million in City of Flagstaff wildfire suppression, stormwater flood mitigation and wastewater treatment infrastructure. Specifically, $26 million of this funding will be used to fund stormwater infrastructure improvements in the Spruce Wash area to lessen the impacts of flooding in affected neighborhoods.

The development of the Spruce Wash Technical Feasibility Study Phase I and Phase II conducted by Peak Engineering identified seven Projects to be constructed with the $26 million in funding from Prop 441 to mitigate post-wildfire flooding in the Spruce Wash. The Suite of Projects will be constructed in addition to the Park Way Basins and the Killip Basins Inlet, which are funded through other sources.

On December 15, 2022, Purchasing staff solicited a Request for Statement of Qualifications for CMAR design and construction phase services. On January 13, 2023 Purchasing received Statements of Qualifications (SOQs) from the following five construction firms: Banicki Construction, Eagle Mountain Construction, Fann Contracting, Kinney Construction, and Tiffany Construction Company. A nine-member selection committee of City staff, three outside engineering consultants, and an outside contractor executive evaluated the SOQs. After the selection committee review process and negotiations, in early April 2023, the City's qualifications based selection process identified Eagle Mountain Construction as the most qualified contractor to perform the Construction Manager at Risk (CMAR) design and construction phase services for the Proposition 441 Spruce Wash Flood Mitigation Suite of Projects.

Key Considerations:

The Spruce Wash Flood Mitigation Suite of Projects consist of the following seven Projects:

1. Grandview Drive Reconstruction – a reconstructed inverted crown street with vertical curb instead of rolled curb to increase stormwater capacity of the roadway on Grandview from Linda Vista to Cedar including the side-streets and replacing and lowering the existing water and sewer mains and services to ensure proper cover with the lowered roadway as well as to replace the aging utilities.
2. The Wedge Detention Basin – a detention basin to receive diverted flows from Spruce Wash.
3. Linda Vista Drive Crossing – a new box culvert to increase the inlet and downstream channel capacity and reduce the potential for overtopping of Linda Vista Drive.
4. Cedar Avenue to Linda Vista Drive Channel: a re-graded and hardened channel to improve capacity for stormwater runoff conveyance.
5. Cedar Avenue Crossing: a new box culvert to increase the inlet capacity.
6. Arroyo Seco Drive to Dortha Avenue Channel: a re-graded and hardened channel to improve capacity for stormwater runoff conveyance.
7. Arroyo Seco Drive Inlet: a reconstructed inlet structure for the purpose of increasing the inlet capacity to capture more stormwater into the existing 60-inch storm drain.

For the Spruce Wash Flood Mitigation Suite of Projects this is the First GMP and original CMAR Agreement, which will include the construction of the underground utilities portion of the Grandview Project and the clearing portion of the Wedge Project. The remaining roadway portion of the Grandview Project and the remaining storm drain and detention basin portion of the Wedge Project as well as the other remaining Projects will be presented for Council's consideration in early 2024 with a second GMP

added as an amendment to this original Agreement.

The Phase II Feasibility Study and final stormwater modeling was completed in early June of 2023. Design is still underway on the remaining Suite of Projects and is anticipated to be complete in December of 2023. Scheduling and sequencing of the construction of the Suite of Projects will be determined as design progresses.

The improvements with the underground utilities portion of the Grandview Project generally consist of replacing and lowering the existing underground water and sewer infrastructure prior to the construction of the inverted crown and vertical curbs on Grandview Drive from Cedar Avenue to Linda Vista and the associated side-streets to increase stormwater capacity of the roadway. These lowered and replaced underground utilities will include water and sewer mains, water and sewer services, and fire hydrants. The associated roadway improvements will be constructed at a later date. Underground conduit for fiberoptic, communications, and electric will not be included in this project as the location is not within the City of Flagstaff's Broadband Infrastructure Master Plan, Franchise Utility Companies do not have plans or funds to relocate infrastructure underground into the roadway, and additional funding is not available to upgrade the existing streetlight infrastructure. The improvements with the clearing of the Wedge Project generally consist of removing trees in the footprint of the detention basin for the Wedge Project and preparing the area to be used as a temporary construction yard for the Spruce Wash Flood Mitigation Suite of Projects.

The Construction Manager at Risk (CMAR) method of procurement was selected to expedite the design and construction schedule and to accommodate the complex sequencing of construction activities for this large-scale complex Project with limits in an established neighborhood, near multiple schools, on high traffic volume streets with Mountain Line bus routes, and in a wash that experiences post-wildfire flooding. The CMAR process is a collaborative effort, which allows for flexibility with delivering the design and construction of the Project, as well as an open dialog between the City, the Design Consultant, and the Contractor on critical design and construction issues to minimize impacts to the community during construction.

Expanded Financial Considerations:

The Spruce Wash Flood Mitigation Suite of Projects is funded by the November 2022 voter approved Proposition 441 Wildfire, Flood, and Wastewater Infrastructure Bond, which dedicated $26 million towards flood mitigation projects. The Grandview Utilities portion of the Grandview project is funded by the FY24 budget appropriations of $5,853,826 from the Grandview budget line item under the Proposition 441 Funds in account number 410-08-385-3527-3. The Wedge Clearing portion of the Wedge project is funded by the FY24 budget appropriations of $5,985,470 from The Wedge budget line item under the Proposition 441 Funds in account number 410-08-385-3570-3.

The Guaranteed Maximum Price (GMP) for the Grandview Utilities and Wedge Clearing is $2,906,383.00 plus an approximately 2% Owners Contingency of $50,000.00 which combined equals the Total Contract Price of $2,956,383.00. The City of Flagstaff is the Owner.

Community Benefits and Considerations:

- Mitigating post-wildfire flooding in the Spruce Wash and surrounding neighborhoods, businesses, and schools.
- Replacing and or abandoning aged and undersized existing water and sewer infrastructure, ranging from 45-63 years old, to meet current standards.
- Reducing required utilities maintenance with the construction of the new infrastructure.
- Coordinating construction of multiple projects and utilizing project areas for temporary construction yards in the immediate vicinity to minimize inconveniences to the public and reduce costs.

Community Involvement:

Inform, Involve, Empower:

- Starting from roughly August of 2021 there have been over 16 Museum Flood and Post Wildfire Flooding Council Updates which will continue through and after the design and construction of the Spruce Wash Flood Mitigation Suite of Projects.
- In January 2022, Beta PR on behalf of the City of Flagstaff created the Museum Fire Flood Projects Website museumfloodprojects.com which included the Phase I – Spruce Wash Technical Feasibility Study subpage. Since its creation 3,500 individuals have visited site with over 4,300 total visits. The site also includes a subpage where people can sign up to receive E-Newsletters sent out via email on a regular basis to provide updates and information on all things the community should know related to the Museum Fire Flood Mitigation Projects.
- In February 2022, Beta PR on behalf of the City of Flagstaff began sending out the ENewsletters and will continue to do so through and after the completion of the Spruce Wash Flood Mitigation Suite of Projects. There are currently 526 ENewsletter subscribers.
- To answer stakeholder's questions, Beta PR created and maintains a Museum Fire Flood Projects email address (info@museumfloodprojects.com). To date, over 35 stakeholders have utilized the email to get their questions and concerns answered.
- In February 2022, Beta PR on behalf of the City of Flagstaff sent out an introduction mailer for Museum Fire Flood Mitigation Projects and Information that was mailed to 950 properties in Spruce Wash area that included a Spanish translated side.
- In November 2022, voters approved Proposition 441 with support from 76% of Flagstaff voters.
- In December 2022, the Proposition 441 subpage of the Museum Fire Flood Projects Website created which includes more information regarding the Spruce Wash Flood Mitigation Suite of Projects.
- On February 2, 2023, the City hosted a Spruce Wash Community Meeting to provide information on the history of the Museum Fire, update on the progress of Spruce Wash Watershed restoration, November Prop 441 passage, and Prop 441 preliminary projects.
- On May 15, 2023, the City hosted the second Spruce Wash Community Meeting to provide information on the 2023 monsoon forecast, Spruce Wash Flood Mitigation Suite of Projects update, Coconino County Flood Control District Update, and preparing for the 2023 monsoon season.
- In the fall of 2023 additional Community Meetings will be held to inform the community on the updated modeling and flood risk assessment maps to show the positive impacts of the Suite of Projects.
- Eagle Mountain Construction, Beta PR, and City staff will be intimately involved with the coordination of construction activities and keeping the stakeholders informed on schedule, sequence, and impacts through construction.
- Other Project Stakeholders including FUSD and Mountain Line will be notified of the upcoming Project and will be coordinated with on the traffic control and phasing plans during construction.
- All the Emergency and relevant Public Service organizations will be notified of the Project prior to construction.

Expanded Options and Alternatives:

1. Approve the award for the Agreement as recommended. Approval will allow work to move forward; or,
2. Reject approval of the award as recommended. This action would delay the Project
    a. If rejection occurs, possible options include:
        i. Ask staff to re-evaluate the recommendation; or
        ii. Suspend or cancel the project completely.

Attachments: CMAR GMP1

Contractor’s and Owner’s Contingency Justification
Spruce Wash Flood Mitigation Suite of Projects Context Map
Grandview Utilities Vicinity Map
Wedge Clearing Vicinity Map

City of Flagstaff, Arizona

Spruce Wash Drainage Improvements Projects

CONSTRUCTION MANAGER AT RISK

CONSTRUCTION PHASE SERVICES
Phase 1 – GMP 1

Agreement No. 2023-60

Mayor
Becky Daggett

Council

Austin Aslan
Deborah Harris
Khara House
Lori Matthews
Jim McCarthy
Miranda Sweet

City Manager
Greg Clifton

Water Services Director
Shannon Jones

Community Development Director
Dan Folke

Public Works Director
Scott Overton

Engineering & Capital Improvements Director
Paul Mood

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EXHIBIT A – PROJECT DESCRIPTION

EXHIBIT B – APPROVED GMP 1 PROPOSAL

City of Flagstaff, Arizona

SPRUCE WASH IMPROVEMENTS PROJECTS
CONSTRUCTION MANAGER AT RISK
CONSTRUCTION PHASE SERVICES
Agreement No. 2023-60

This Construction Services Agreement ("Agreement"), is made and entered into by and between the City of Flagstaff, an Arizona municipal corporation ("Owner"), and Eagle Mountain Construction, Inc., an Arizona corporation ("Construction Manager at Risk" or "CMAR") on this ___ day of _____, 20__.

RECITALS

A. The City Manager of the City of Flagstaff, Arizona, is authorized and empowered by provisions of the City Charter to execute agreements for professional services and construction services.

B. The Owner intends to construct the **Spruce Wash Drainage Improvements Projects – Phase 1, GMP 1** as more fully described in Exhibit "A," attached ("Project Description") and Exhibit "B," attached ("Approved GMP1 Proposal").

C. To undertake the construction administration of the Project, the Owner has entered into separate agreements with Shephard Wesnitzer, Inc., Peak Engineering, Inc., and J.E. Fuller, Inc. ("Design Professional(s)").

D. CMAR has represented to the Owner that it has the ability to provide construction phase services for the Project, and based on this representation, the Owner hereby engages CMAR to provide these services and construct the Project.

E. A Design Phase Services Agreement (Contract No. 2023-60) has been executed previously between the Owner and CMAR to perform design phase services for the Project. Those services may continue during the duration of this Agreement.

AGREEMENT

***NOW THEREFORE*,** for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the Owner and CMAR as follows:

Article 1 - Definitions

"Addenda" - Written or graphic instruments issued prior to the submittal of the GMP Proposal(s), which clarify, correct or change the GMP Proposal(s) requirements.

"Agreement" - This written document signed by the Owner and CMAR covering the construction phase of the Project, and including other documents itemized and referenced in, or attached to, and made part of this Agreement.

"Alternate Systems Evaluations" - Alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles which have the potential to reduce construction costs while still delivering a quality and functional Project that meets the Owner requirements.

"Change Directive" - A written order prepared and signed by the Owner, directing a change in the Work prior to agreement on an adjustment in the Contract Price and the Contract Time.

"Change Order" - A type of Contract amendment issued after execution of the Contract Documents or future GMP Amendments where unanticipated or unforeseen circumstances in Work have been encountered. Each Change Order shall be signed by the Owner and CMAR, stating their agreement upon all of the following: the addition, deletion or revision in the scope of services or Deliverables; the amount of the adjustment to the Contract Price; and the extent of the adjustment to the Contract Time; or other modifications to Agreement terms.

""City" ("Owner") - The City of Flagstaff, a political subdivision of the State of Arizona, with whom CMAR has entered into this Agreement and for whom the services are to be provided pursuant to said Agreement.

"CMAR" - The Contractor selected by the Owner to provide construction services as detailed in this Agreement.

"CMAR's Contingency" - A fund to cover cost growth during the Project, legitimate unforeseen construction expenses, or expenses otherwise agreed to by the Owner to be used at the discretion of CMAR usually for costs that result from Project circumstances. The amount of CMAR's Contingency shall be negotiated as a separate line item in each GMP package. Use and management of CMAR's Contingency is described in this Agreement.

"CMAR's Representative" - The designated CMAR Representative.

"CMAR's Senior Representative" - The designated CMAR Senior Representative.

"Construction Documents" - Certain plans, specifications and drawings prepared by the Design Professional(s) after correcting for permit review requirements or dated plans and specifications specifically identified as the "Construction Documents" herein or in an Exhibit or Addendum which is attached hereto.

"Construction Fee" - CMAR's administrative costs for providing off-site management, supervision, General Conditions support, support of construction activities, home office overhead, and profit, as applicable to this Project, whether at CMAR's principal or branch offices.

"Contingency, CMAR's" - A fund to cover cost growth during the Project, legitimate unforeseen construction expenses, or expenses otherwise agreed to by the Owner to be used at the discretion of CMAR usually for costs that result from Project circumstances. The amount of CMAR's Contingency shall be negotiated as a separate line item in each GMP package. Use and management of CMAR's Contingency is described in in this Agreement.

"Contingency, Owner's" - A fund to cover cost growth during the Project used at the discretion of the Owner usually for costs that result from the Owner-directed changes or unforeseen Site conditions. The amount of the Owners' Contingency shall be set solely by the Owner and shall be in addition to the CMAR's GMP. Use and management of the Owner's Contingency is described in this Agreement.

"Contract Documents" - The following items and documents in descending order of precedence executed by the Owner and CMAR: (i) all written modifications, amendments, and Change Orders; (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; and (iv) GMP Plans and Specifications.

"Contract Price" - The amount or amounts set forth in this Agreement.

"Contract Time" - The number of days or the dates related to the construction phase, including authorized adjustments, allotted in the Contract Documents for Substantial and Final Completion of the Work, subject to Winter Shutdown.

"Cost Models" - Cost tabulation for the construction of the Project developed by the CMAR and continually updated throughout the preconstruction phase and utilized to develop the Guaranteed Maximum Price Proposal. The Cost Model is created using the Design Professional(s) list of standard pay items.

"Cost of the Work" - The direct costs necessarily incurred by CMAR in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit and license fees, materials testing, and related items. The Cost of the Work shall not include CMAR's Construction Fee, General Conditions Costs, bonds, insurance, or taxes.

"Critical Path Method" ("CPM") - A scheduling technique used to predict project duration by analyzing which sequence of activities has the least amount of scheduling flexibility thus identifying the path (sequence) of activities which represent the longest total time required to complete the Project. Delay in completion of the identified activities shall cause a delay in achieving Substantial Completion.

"Day(s)" - Calendar days unless otherwise specifically noted in the Contract Documents.

"Deliverables, Construction Phase Services Agreement" - The Work conducted by CMAR during the construction phase which may include, but are not limited to: Construction Management Plan, Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, cost models, construction market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Statement of Proposed Minority Business Enterprise/Women's Business Enterprise ("MBE/WBE") Utilization as may be required or appropriate, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Agreement or required by the Project Team and other services set forth in this Agreement or reasonably inferable therefrom.

"Deliverables, Design Phase Services Agreement" - The Work by CMAR during the design phase which may include, but is not limited to: design recommendations, Project scheduling, constructability reviews, alternate systems evaluation, cost estimate, Minority Business Enterprise/Woman's Business Enterprise/Small Business Enterprise ("MBE/WBE/SBE") utilization, Subcontractor agreements, Subcontractor bid packages, GMPs preparations and other services set forth in the Design Phase Services Agreement or reasonably inferable therefrom.

"Design Professional" - A qualified, licensed design professional who furnishes, design**,** construction documents, and/or construction administration services required for the Project.

"Drawings (Plans)" - Documents, which visually represent the scope, extent and character of the Work to be furnished and performed by CMAR during the construction phase, and which have been prepared or approved by the Design Professional(s) and the Owner. Includes Drawings that have reached a sufficient stage of completion and released by the Design Professional solely for the purposes of review and/or use in performing constructability or bidability reviews and in preparing cost models (e.g., conceptual design Drawings, preliminary design Drawings, detailed design Drawings at 30%, 60%, 90% or 100% or schematic, design development, construction documents), but *"not for construction"*. Shop Drawings are not Drawings as so defined.

"Differing Site Conditions" - Concealed or latent physical conditions or subsurface conditions at the Site that: (i) materially differ from the conditions indicated in the Contract Documents; or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.

"Final Completion" - 100% completion of all construction Work noted in, or reasonably inferred from the Contract Documents, including but not limited to, all Punch Lists work, all record and close-out documents specified in Owner's Project specifications and Owner training/start up activities.

"Float" - The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

"General Conditions Costs" - All on-site Project-specific costs required to perform the Work, but not itemized or included in the Cost of the Work. Includes, but is not limited to, the following types of costs for CMAR during the construction phases: (i) payroll costs for Project manager or CMAR for work conducted at the Site; (ii) payroll costs for the superintendent and full-time general foremen; (iii) payroll costs for other management personnel resident and working at the Site; (iv) workers not included as direct labor costs engaged in support (e.g., loading/unloading, clean-up, etc.); (v) costs of offices and temporary facilities setup solely for this Project, including, office materials, office supplies, office equipment and minor expenses; (vi) cost of utilities, fuel, sanitary facilities and telephone services at the Site; (vii) costs of liability and other applicable insurance premiums not included in labor burdens for direct labor costs, (viii) costs of bond premiums, (ix) costs of consultants not in the direct employ of CMAR or Subcontractors.

"Guaranteed Maximum Price" or "GMP" - The sum of the maximum Cost of the Work; the Construction Fee; General Conditions Costs, taxes, and CMAR's Contingency.

"GMP Plans and Specifications" - The plans and specifications upon which the Guaranteed Maximum Price proposal is based.

"Legal Requirements" - All applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

"Notice to Proceed" or "NTP" - The directive issued by the Owner, authorizing CMAR to start Work.

"Opening Physical Conditions" - The current physical conditions present on the Site as jointly documented by an inspection of the Site by Owner and CMAR at the Pre-construction Conference.

"Owner's Representative" - The designated City Project Manager.

"Owner's Senior Representative" - The City of Flagstaff's designated Division/Department Head.

"Performance Period" - The period of time allotted in the Contract Documents to complete the Work comprised within a GMP. The Performance Period shall be stated with each GMP and shown on the Project Master Schedule.

"Payment Request" - The Owner form used by CMAR to request progress payments or final payment for Work and which shall include such supporting documentation as is required by the Contract Documents or the Owner.

"Pre-construction Conference" - A Conference held between Owner and CMAR prior to the commencement of any Work, as scheduled by the Owner's Representative or designee.

"Product Data" - Illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by CMAR to illustrate materials or equipment for some portion of the Work.

"Project" - The Work to be completed in the execution of this Agreement, as amended, and as described in the Recitals above and in Exhibit "A" attached.

"Project Team" - The Construction Phase Services team consisting of the Design Professional, CMAR, the Owner's Representative, the Owner's Client Department representatives and other stakeholders who are responsible for making decisions regarding the Project.

"Project Record Documents" - The documents created pursuant to this Agreement.

"Samples" - Physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work shall be evaluated.

"Schedule of Values" ("SOV") - A statement furnished by CMAR to the Owner's Representative for approval, reflecting the portions of the GMP allotted for the various parts of the Work and used as the basis for evaluating CMAR's applications for progress payments.

"Shop Drawings" - All drawings, diagrams, schedules, and other data specially prepared for the Work by CMAR or a Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

"Site" - Land or premises on which the Project is located.

"Specifications" - The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship, as applied to the Work, and certain administrative details applicable thereto.

"Subconsultant" - A person, firm or corporation having an agreement with CMAR to furnish services required as its independent professional associate or consultant with respect to the Project.

"Subcontractor" - An individual or firm having a direct agreement with CMAR, or any other individual or firm, having an agreement with the aforesaid CMAR at any tier, who undertakes to perform a part of the design phase services or construction phase Work for which CMAR is responsible.

"Submittals" - Documents and/or things that may be produced or presented by one party for consideration, review, or such other actions as may be required by this Agreement by another party, entity, or person. Examples of Submittals include, but are not limited to, preliminary or evolving drafts, product data samples, etc.

"Substantial Completion" - The construction services for the Work (or a specified part thereof) has progressed to the point where, in the opinion of the Owner's Representative, as evidenced by a Certificate of Substantial Completion, such construction services are sufficiently complete in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; without any outstanding concurrent Work at the site, except as may be required to complete or correct Punch List items. If no such certificate is issued, Substantial Completion takes place when the construction services Work or a Construction Phase is complete and ready for final payment as evidenced by the written recommendation of final payment by the Owner's Representative. The terms "substantially complete" and "substantially completed" as applied to all or part of the construction Work refers to Substantial Completion thereof.

"Supplier" - A manufacturer, fabricator, supplier, distributor, material man or vendor having a direct agreement with CMAR or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CMAR or any Subcontractor.

"Winter Shutdown" - The period of time typically including December through March during which no Work will be performed by any person or entity (including, but not limited to, the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the Owner reserves the right to initiate and terminate a Winter Shutdown at the Owner's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the Owner despite delays, *for any reason,* on the Project.

"Work" - The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources, and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

Article 2 - CMAR's Services and Responsibilities

2.0 CMAR shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project, and to completely and totally construct the same and install the material therein for the Owner. All Work shall be performed in a good and workmanlike and substantial manner and within the care and skill of a qualified CMAR in Flagstaff, Arizona. The Work shall be to the satisfaction of the Owner and strictly pursuant to and in conformity with the Project's Contract Documents. It is not required that the services be performed in the sequence in which they are described.

2.1 General Services

CMAR's Representative shall be reasonably available to the Owner and shall have the necessary expertise and experience required to supervise the Work. CMAR's Representative shall communicate regularly with the Owner but not less than once a week and shall be vested with the authority to act on behalf of CMAR. CMAR's Representative may be replaced only with the written consent of the Owner.

2.2 Government Approvals and Permits

2.2.1 Unless otherwise provided, CMAR shall obtain all applicable and/or necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. CMAR is specifically reminded of the need to obtain the applicable and/or necessary environmental permits or file the applicable and/or necessary environmental notices.

2.2.2 Copies of the permits and notices identified in this Agreement must be provided to the Owner's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the Owner's Representative. This provision does not constitute an assumption by the Owner of an obligation of any kind for violation of said permit or notice requirements.

2.2.3 Owner shall be responsible for City of Flagstaff review and permit(s) fees for grading and drainage, water, sewer, floodplain, and landscaping. Owner shall also pay for utility design fees for permanent services.

2.2.4 CMAR shall be responsible for all other permits and review fees not specifically listed in this Agreements

2.2.5 CMAR shall be responsible for the cost of water meter(s), water and sewer taps, fire lines and taps, and all water bills on the project meters until Substantial Completion of the Project. Arrangements for construction water are CMAR's responsibility.

2.3 Pre-construction Conference

2.3.1 Prior to the commencement of any Work, the Owner's Representative or designee shall schedule and conduct a Preconstruction Conference.

2.3.1.1 At the Pre-Construction Conference, Owner and CMAR shall document the Opening Physical Conditions of the Site as jointly documented by an inspection of the Site by Owner and CMAR at the Pre-Construction.

2.3.2 The purpose of this conference is to establish a working relationship between CMAR, utility firms, and various City agencies. The agenda shall include critical elements of the work schedule, submittal schedule, cost breakdown of major lump sum items, Payment Requests

and processing, coordination with the involved utility firms, the level of Project Record Documents required and emergency telephone numbers for all representatives involved during construction.

2.3.3 The Notice to Proceed date shall be concurred with by the parties or set by the Owner at the Preconstruction Conference. After the meeting and upon receipt of a signed Agreement and delivery of the required bonds and insurance in an Owner approved format, a Notice to Proceed letter shall be issued confirming the construction start date, Performance Period and if applicable, the Substantial Completion date. If a Substantial Completion date is established the conditions of the Substantial Completion shall be listed and/or as set forth in Article 1 herein. Failure by CMAR to provide the properly executed bond and insurance forms in a timely manner may delay the construction start date; however, it shall not alter the proposed Substantial Completion date nor be a basis for any time extension request or other claims.

2.3.4 CMAR shall provide a Schedule of Values based on the categories used in the buyout of the Work but not greater than the approved GMPs and identifying CMAR's Contingency. The Schedule of Values shall subdivide the Work into all items comprising the Work. The Schedule of Values shall contain sufficient detail to identify each individual element of the Work and shall relate to the approved GMPs Schedule. The Schedule of Values shall be subject to approval by the Owner's representative.

2.3.5 Minimum attendance by CMAR shall be CMAR's Representative, who is authorized to execute and sign documents on behalf of the firm, the CMAR Senior Representative, and CMAR's safety officer.

2.4 Control of the Work

2.4.1 Unless otherwise provided in the Contract Documents to be the responsibility of the Owner or a separate Contractor, CMAR shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities, and other temporary facilities to permit CMAR to complete the Work consistent with the Contract Documents.

2.4.2 CMAR shall perform all construction activities efficiently and with the requisite expertise, skill, and competence to satisfy the requirements of the Contract Documents. CMAR shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.4.3 CMAR's Representative or CMAR's Senior Representative shall be present at the Sites at all times that construction activities are taking place.

2.4.3.1 All elements of the Work shall be under the direct supervision of a foreman or his designated representative on the Sites who shall have the authority to take actions required to properly carry out that particular element of the work.

2.4.3.2 In the event of noncompliance with this Section, the Owner may require CMAR to stop or suspend the Work in whole or in part.

2.4.4 Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is CMAR's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer.

2.4.5 Before ordering materials or doing work, CMAR and each Subcontractor shall verify measurements at the Site and shall be responsible for the correctness of such measurements. No extra charge or compensation shall be allowed because of differences between actual dimensions and the dimensions indicated on the drawings; differences which may be found shall be submitted to the Owner for resolution before proceeding with the Work.

2.4.6 CMAR shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to CMAR with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Owner at once.

2.4.7 CMAR shall establish and maintain all construction grades, lines, levels, and benchmarks, and shall be responsible for accuracy and protection of same. This Work shall be performed or supervised by a Civil Engineer or Surveyor licensed as such in the State of Arizona.

2.4.8 Any person employed by CMAR or any Subcontractor who, in the opinion of the Owner, does not perform his or her work in a proper, skillful, and safe manner or is intemperate or disorderly shall, at the written request of the Owner, be removed from the Work by CMAR or Subcontractor employing such person, and shall not be employed again in any portion of Work without the written approval of the Owner. CMAR or Subcontractor shall hold the Owner harmless from damages or claims which may occur in the enforcement of this Section.

2.4.9 CMAR assumes responsibility to the Owner for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.4.10 CMAR shall coordinate the activities of all Subcontractors. If the Owner performs other work on the Project or at the Site with separate contractors under the Owner's control, CMAR agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.5 Control of the Work Site

2.5.1 Throughout all phases of construction, including suspension of Work, CMAR shall keep the Site reasonably free from debris, trash and construction wastes to permit CMAR to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, CMAR shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit the Owner to occupy the Project or a portion of the Project for its intended use.

2.5.2 CMAR shall take whatever steps, procedures or means to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the Owner and in accordance with the requirements of the Arizona Department of Environmental Quality rules and regulations.

2.5.3 CMAR shall maintain ADA, ADAAG and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA, ADAAG and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. CMAR shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.

2.5.4 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Site by CMAR. When equipment is no longer required for the Work, it shall be removed promptly from the Site. Protection of construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of CMAR.

2.6 Shop Drawings, Product Data and Samples

2.6.1 Shop Drawings, Product Data, Samples and similar Submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the Work for which Submittals are required, the way CMAR proposes to conform to the information given and the design concept expressed in the Contract Documents.

2.6.2 CMAR shall review, approve, verify, and submit to the Owner five copies of each Shop Drawing, Product Data, Sample, and similar Submittals required by the Contract Documents in accordance with the approved GMP schedule as shown in Exhibit "B" as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by CMAR, which are not required by the Contract Documents, may be returned without action.

2.6.3 CMAR shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar Submittals until the respective submittal has been approved by the Owner or Owner's designee. Such Work shall be in accordance with approved Submittals.

2.6.4 By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar Submittals, CMAR represents that CMAR has determined and verified materials, field measurements and field construction criteria related thereto, or shall do so, and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents.

2.6.5 CMAR shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data, Samples or similar Submittals unless CMAR has specifically informed the Owner in writing of such deviation at the time of submittal and the Owner has given written approval to the specific deviation. CMAR shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar Submittals by the Owner's approval thereof.

2.6.6 CMAR shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar Submittals, to revisions other than those requested by the Owner on previous Submittals.

2.6.7 Informational Submittals upon which the Owner is not expected to take responsive action may be so identified in the Contract Documents.

2.6.8 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Owner shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

2.7 Quality Control, Testing and Inspection

2.7.1 All materials used in the Work shall be new and unused, unless otherwise noted, and shall meet all quality requirements of the Contract Documents.

2.7.2 All construction materials to be used on the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection by the Owner. Any material rejected by the Owner shall be removed immediately and replaced in an acceptable manner.

2.7.3 The procedures and methods used to sample and test material shall be determined by the Owner. Unless otherwise specified, samples and tests shall be made in accordance with the most recently adopted edition of the City of Flagstaff Engineering Division Design and Construction Standards and Specifications.

2.7.4 The Owner shall select a City or Independent Testing Laboratory and shall pay for initial City Acceptance Testing.

2.7.4.1 When the first and/or subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and the cost of all tests, except the first test, shall be paid for by CMAR. CMAR's Contingency cannot be utilized for the cost of re-testing.

2.7.4.2 When the first and/or subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.

2.7.5 CMAR shall cooperate with the selected testing laboratory and all others responsible for testing and inspecting the work and shall provide them access to the Work at all times.

2.7.6 At the option of the Owner, materials may be approved at the source of supply before delivery is started.

2.7.7 Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be paid by CMAR, unless otherwise provided in the Contract Documents.

2.7.8 CMAR's convenience and quality control testing and inspections shall be the sole responsibility of CMAR and paid by CMAR.

2.8 Trade Names and Substitutions

2.8.1 Unless indicated that no substitutions are permitted, CMAR may request a substitution or alternative to Contract Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number, subject to the following:

2.8.2 The substitution shall be submitted by CMAR in writing to the Owner.

2.8.3 CMAR shall certify that the substitution shall perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.

2.8.4 The submittal shall state any required changes in the Contract Documents to adapt the design to the proposed substitution.

2.8.5 The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any adjustment in the Contract Time created by the substitution.

2.8.6 CMAR if requested by the Owner shall submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.

2.8.7 The Owner shall make the final decision and shall notify CMAR in writing as to whether the substitution has been accepted or rejected.

2.8.8 If the Owner does not respond in a timely manner, CMAR shall continue to perform the Work in accordance with the Contract Documents and the substitution shall be considered rejected.

2.9 Project Record Documents

2.9.1 During the construction period, CMAR shall maintain at the Site a set of blueline or blackline prints of the Construction Document drawings and shop drawings for Project Record Document purposes.

2.9.1.1 CMAR shall mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Documents. CMAR shall give particular attention to information on concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:

2.9.1.1.1 Dimensional changes to the drawings

2.9.1.1.2 Revisions to details shown on drawings

2.9.1.1.3 Locations and depths of underground utilities

2.9.1.1.4 Revisions to routing of piping and conduits

2.9.1.1.5 Actual equipment locations

2.9.1.1.6 Locations of concealed internal utilities

2.9.1.1.7 Changes made by Change Order, Change Order Directive, Field Order, Record of Field Change, ASI's and RFI's

2.9.1.1.8 Addenda and other details not on original Agreement Drawings

2.9.1.2 CMAR shall mark completely and accurately Project Record Drawing prints of Construction Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on the Construction Documents location.

2.9.1.3 CMAR shall mark Project Record Drawings sets with red erasable colored pencil.

2.9.1.4 CMAR shall note RFI Numbers, ASI Numbers and Change Order numbers, etc., as required to identify the source of the change to the Construction Documents.

2.9.1.5 CMAR shall, as a condition of Substantial Completion, submit Project Record Drawing prints and Shop Drawings to the Owner or its representative for review and comment.

2.9.2 Upon receipt of the reviewed Project Record Drawings from the Owner, CMAR shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the Owner within 14 Days:

2.9.2.1 CMAR shall provide a complete set of electronic Project Record Drawings prepared in AutoCAD format compatible with City of Flagstaff CADD technology. The Design Professional shall provide files of the original Construction Documents to CMAR for the use of preparing these final Project Record Drawings or CMAR may contract with the Design Professional to revise and update the electronic drawing files. Each drawing shall be clearly marked with "As-Built Document."

2.9.2.2 CMAR shall provide a complete set of digital final AutoCAD drawings.

2.9.2.3 CMAR shall provide the original copy of the Project Record Drawings (redline mark-ups).

2.10 Project Safety

2.10.1 CMAR recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

2.10.2 CMAR assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

2.10.3 CMAR shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, CMAR's Safety Representative shall be an individual stationed at the Site who may have other responsibilities on the Project in addition to safety.

2.10.4 The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with CMAR's personnel, Subcontractors and others as applicable.

2.10.5 CMAR and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate any applicable Legal Requirement.

2.10.6 CMAR shall immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.10.7 CMAR's responsibility for safety under this Section is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.11 Warranty

2.11.1 CMAR warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

2.11.2 CMAR's warranty obligation shall be for one (1) year, except for such greater period as may be required by the technical specifications.

2.11.3 Nothing in this warranty is intended to limit any manufacturer's warranty which provides The Owner with greater warranty rights than set forth in this Section or the Contract Documents. CMAR shall provide Owner with all manufacturers' warranties upon Substantial Completion.

2.11.4 Nothing in this warranty is intended to limit any other remedy at law that may be available to the Owner.

2.12 Correction of Defective Work

2.12.1 CMAR agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to this Agreement, within a period of one (1) year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents, or as may be available to the Owner by law. A progress payment, or partial or entire use or occupancy of the Project by the Owner, shall not constitute acceptance of Work not in accordance with the Contract Documents.

2.12.2 During the performance of the Work, CMAR shall take meaningful steps to commence correction of such nonconforming Work as notified by the Owner or as discovered by CMAR. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CMAR fails to commence the necessary steps during the performance of the Work, Owner, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that Owner shall commence correction of such nonconforming Work with its own forces.

2.12.3 CMAR shall, take meaningful steps to commence correction of nonconforming Work subject to this Agreement, within seven (7) days of receipt of written notice from Owner. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CMAR fails to commence the necessary steps within such seven-day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that Owner shall commence correction of such nonconforming Work with its own forces.

2.12.4 If Owner does perform such corrective Work, CMAR shall be responsible for all reasonable costs incurred by Owner in performing such correction.

2.12.5 For nonconforming Work that creates an emergency requiring an immediate response, CMAR shall respond and initiate corrections within twenty-four hours.

2.12.6 The one-year period identified in this Agreement applies only to CMAR's obligation to correct nonconforming Work relative to the warranty set forth in that section and is not intended to constitute a period of limitations for any other rights or remedies the Owner may have regarding CMAR's other obligations under the Contract Documents or as may be allowed by law.

Article 3 - The Owner's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 Owner shall, throughout the performance of the Work, cooperate with CMAR and perform its responsibilities, obligations and services in a timely manner to facilitate CMAR's timely and efficient performance of the Work and so as not to delay or interfere with CMAR's performance of its obligations under the Contract Documents.

3.1.2 Owner shall furnish at CMAR's request, at no cost to CMAR, a CADD file of the Construction Documents in AutoCAD format compatible with the City of Flagstaff CADD technology.

3.2 The Owner's Representative

3.2.1 Owner's Representative shall be responsible for providing Owner supplied information and approvals in a timely manner to permit CMAR to fulfill its obligations under the Contract Documents.

3.2.2 Owner's Representative shall also provide CMAR with prompt notice if Owner's Representative observes any failure on the part of CMAR to fulfill its contractual obligations, including any default or defect in the project or non-conformance with the drawings and specifications.

3.2.3 The Owner may utilize field inspectors to assist the Owner's Representative during construction in observing performance of CMAR. The inspector is for the purpose of assisting the Owner's Representative and should not be confused with an inspector with a City regulatory department.

3.2.3.1 The field inspector shall be authorized to inspect all Work and materials furnished. Such inspection may extend to all or part of the Work and to the preparation, fabrication or manufacture of the materials to be used.

3.2.3.2 The field inspector shall not be authorized to issue instructions contrary to the Construction Documents or to act as foreman for CMAR.

3.2.3.3 The field inspector shall have the authority to reject work or materials until any questions at issue can be decided by the Owner's Representative.

3.2.3.4 The furnishing of such services for the Owner shall not make the Owner responsible for or give the Owner control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs or responsibility for CMAR's failure to perform the work in accordance with Contract Documents.

3.3 Design Professional Services

3.3.1 The Owner may contract separately with one or more Design Professional(s) to provide construction administration of the Project. The Design Professional(s)' agreement as well as other firms hired by the Owner shall be available for review by CMAR. CMAR shall not have any right however, to limit or restrict any contract provisions and/or modifications that are mutually acceptable to the Owner and Design Professional(s).

3.3.2 The Owner may contract with the Design Professional(s) to provide some or all of the following services during the performance of the Work.

3.3.2.1 Provide oversight of the Work. The Owner and CMAR shall endeavor to communicate through the Design Professional. Communications by and with the Design Professional(s)' consultants shall be through the Design Professional(s).

3.3.2.2 Conduct Site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in accordance with the Contract Documents. The Design Professional(s) shall keep the Owner informed of progress of the Work and any noted defects and deficiencies of the Work and shall endeavor to guard the Owner against defects and deficiencies in the Work. The Design Professional(s) may have authority to reject construction, which does not conform to the Construction Documents and to require additional inspection or testing of the construction in accordance with this Agreement.

3.3.2.3 Review and recommend approval of Payment Requests.

3.3.2.4 Review and approve or take other appropriate action upon CMAR's Submittals such as Shop Drawings, Product Data and Samples in accordance with this Agreement.

3.3.2.5 Interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or CMAR. The Design Professional(s)'

response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

3.3.2.6 Prepare Change Orders and may authorize minor changes in the Work as defined in this Agreement.

3.3.2.7 Conduct inspections to determine Substantial Completion and Final Acceptance.

3.3.2.8 Receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by CMAR.

3.4 Owner's Separate Contractors

3.4.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with and coordinate their activities so as not to interfere with CMAR in order to enable CMAR to timely complete the Work consistent with the Contract Documents.

3.5 Permit Review and Inspections

3.5.1 If requested by CMAR, the Owner's Representative shall provide assistance and guidance in obtaining necessary reviews, permits and inspections, however, the responsibility for obtaining the necessary reviews, permits and inspections remains with CMAR.

3.5.2 Regulating agencies of the Owner, such as Community Development, Fire, Planning, Building Inspection, Environmental Services, and Engineering Departments, enforce Legal Requirements. These enforcement activities are not subject to the responsibilities of the Owner under this Agreement.

Article 4 - Contract Time

4.0 Contract Time

4.0.1 Contract Time shall start with the NTP with construction services and shall end with Substantial Completion.

4.0.2 Where there is more than one GMP, each GMP shall establish a separate NTP date and a Performance Period. The Performance Periods for individual GMPs may be sequential or concurrent as established in the individual Notices to Proceed. The Performance Period for GMP 1 under this Agreement shall be **eight hundred forty-five (845**) calendar days starting with the NTP.

4.0.3 CMAR agrees that it shall commence timely performance of the Work and shall achieve substantial completion within the Performance Periods and Contract Time.

4.0.4 All of the times set forth in this Article 4 shall be subject to adjustment in accordance with other provisions of this Agreement.

4.0.5 Time is of the essence, for time matters and the rest of this Agreement. Pursuant to this Agreement, if, in the sole discretion of the Capital Improvements Division of the City of Flagstaff, the Project is not at Substantial Completion prior to the advent of adverse weather conditions, a Winter Shutdown shall occur during which no Work will be performed by any person or entity (including but not limited to the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the Owner reserves the right to initiate and terminate a Winter Shutdown at the

Owner's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the Owner despite delays, *for any reason,* on the Project.

4.1 Substantial Completion

4.1.1 Substantial Completion shall be for the entire Project unless a partial Substantial Completion is identified in the approved GMP schedule and stated in the Notice to Proceed letter or as may be mutually agreed by the parties in writing. Substantial Completion shall be in accordance with the definition in this Agreement and with the criteria set forth in the NTP.

4.1.2 Prior to notifying the Owner, CMAR shall inspect the Work and prepare and submit to the Owner a comprehensive list of items to be completed or corrected. CMAR shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of CMAR to complete all Work in accorda*nce with the C*ontract Document**s.**

4.1.3 CMAR shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete.

4.1.4 Within five (5) days of Owner's receipt of CMAR's notice, the Owner and CMAR shall jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents.

4.1.5 If such Work is substantially complete, Owner shall prepare and issue a Certificate of Substantial Completion that shall set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed within thirty (30) calendar days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and CMAR's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

4.1.6 Owner, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items in this Agreement, (ii) CMAR and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and CMAR agree that Owner's use or occupancy shall not interfere with CMAR's completion of the remaining Work.

4.2 Final Completion

4.2.1 Upon receipt of written notice that the Work or identified portions of the Work is ready for final inspection and acceptance, Owner and CMAR shall jointly inspect to verify that the remaining items of Work have been completed. The Owner shall issue a Final Completion Letter and payment pursuant to this Agreement.

4.3 Liquidated Damages

4.3.1 CMAR understands that if Substantial Completion is not attained within the Contract Time as adjusted, the Owner shall suffer damages, which are difficult to determine and accurately specify. CMAR agrees that if Substantial Completion is not attained within the Contract Time as adjusted, CMAR shall pay the Owner $__ (to be determined on an agreement-by-agreement basis) per day as liquidated damages for each Day that Substantial Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.3.2 CMAR understands that if Final Completion is not attained within the Contract Time as adjusted, the Owner shall suffer damages, which are difficult to determine and accurately specify. CMAR agrees that if Final Completion is not attained within the Contract Time as adjusted, CMAR shall pay the Owner $___ (to be determined on an agreement-by-agreement basis) per day as liquidated damages for each Day that Final Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.4 Project Master Schedule

4.4.1 The Project Master Schedule approved as part of a GMP shall be updated and maintained throughout the Work by CMAR.

4.4.2 The Project Master Schedule shall be revised by CMAR as required by conditions and progress of the Work, but such revisions shall not relieve CMAR of its obligations to complete the Work within the Contract Time, as such dates may be adjusted in accordance with the Contract Documents.

4.4.3 Updated Project Master Schedules shall be submitted monthly by CMAR to the Owner as part of the Payment Request.

4.4.3.1 CMAR shall provide Owner with a monthly status report with each Project Master Schedule detailing the progress of the Work, including: (i) if the Work is proceeding according to schedule, (ii) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (iii) other items that require resolution so as not to jeopardize ability to complete the Work as presented in the GMP and within the Contract Time.

4.4.3.2 With each schedule submittal CMAR shall include a transmittal letter including the following:

4.4.3.2.1 Description of problem tasks (referenced to field instructions, requests for information ("RFI's"), as appropriate.

4.4.3.2.2 Current and anticipated delays including:

4.4.3.2.2.1 Cause of the delay

4.4.3.2.2.2 Corrective action and schedule adjustments to correct the delay

4.4.3.2.2.3 Known or potential impact of the delay on other activities, milestones, and/or the date of Substantial Completion

4.4.3.2.3 Changes in construction sequence

4.4.3.2.4 Pending items and status thereof including but not limited to:

4.4.3.2.4.1 Time Extension requests

4.4.3.2.4.2 Other items

4.4.3.2.5 Substantial Completion date status:

4.4.3.2.5.1 If ahead of schedule, the number of calendar days ahead

4.4.3.2.5.2 If behind schedule, the number of calendar days behind

4.4.3.2.5.3 Other project or scheduling concerns

4.4.4 Owner's review of and response to the Project Master Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not relieve CMAR from compliance with the requirements of the Contract Documents or be construed as relieving CMAR of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

4.4.5 The Project Master Schedule shall include a CPM diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path.

4.4.5.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram schedule shall be presented in a time scaled graphical format for the Project as a whole.

4.4.5.2 The CPM diagram schedule shall indicate all relationships between activities.

4.4.5.3 The activities making up the schedule shall be in sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

4.4.5.4 The CPM diagram schedule shall be based upon activities, which would coincide with the Schedule of Values.

4.4.5.5 The CPM diagram schedule shall show all Submittals associated with each work activity and the review time for each submittal.

4.4.5.6 The CPM diagram schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with CMAR activities.

4.4.5.7 The CPM diagram schedule shall include a critical path activity that reflects anticipated weather delay during the performance of the Agreement. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on the information set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

4.4.6 The Project Master Schedule shall consider the Owner's and the tenants' occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.

4.4.7 Float time shall be as prescribed below:

4.4.7.1 The total Float within the overall schedule, is not for the exclusive use of either the Owner or CMAR but is jointly owned by both and is a resource available to and shared by both parties as needed to meet Agreement milestones and the Project completion date.

4.4.7.2 CMAR shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time extensions shall be granted nor delay damages paid until a delay occurs which extends the Work beyond the Substantial Completion date and then only if any such extensions or damages are shown to be justified under the Contract Documents.

4.4.7.3 Since Float time within the schedule is jointly owned, it is acknowledged that Owner-caused delays on the Project may be offset by Owner-caused time savings (i.e., critical path Submittals returned in less time than allowed by the Agreement, approval of substitution requests and credit changes which result in savings of time to CMAR, etc.). In such an event, CMAR shall not be entitled to receive a time extension or delay damages until all Owner-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

Article 5- Contract Price

5.0 General

5.0.1 CMAR agrees at his own cost and expense, to completely construct and install all Work and materials as called for by this Agreement, free and clear of all claims, liens and charges whatsoever, in the manner and under the conditions specified in the Contract Documents, within the time or times stated in the approved GMP.

5.1 Contract Price

5.1.1 The Contract Price shall be as approved in the Guaranteed Maximum Price 1 Proposal attached as Exhibit "B" and an amount of **$2,906,383.00** with an additional **$50,000.00** allowed for Owner's Contingency for a total contract price of **$2,956,383.00.**

5.1.2 The Cost of the Work is actual costs and is a not-to-exceed reimbursable amount.

5.1.3 The General Conditions Costs will be included in the GMP as a not to exceed amount and paid for on actual costs based on submitted and approved invoices. The Construction Fee will be paid as a firm lump sum.

5.1.4 Taxes are deemed to include all sales, use consumer and other taxes, which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective, or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

5.2 Guaranteed Maximum Price

5.2.1 The GMP is composed of the maximum Cost of the Work; the Construction Fee; General Conditions Costs; taxes; and CMAR's contingency all of which are not-to-exceed cost reimbursable or lump sum amounts. CMAR is at risk to cover any additional Project costs. If the Cost of Work amount, set forth in the GMP, is in excess of the actual Cost of Work and/or CMAR's Contingency, said amount by which the Cost of Work set forth in the GMP is in excess of the actual Cost of Work and/or CMAR's Contingency, shall revert to the Owner.

5.2.2 The GMP is subject to adjustments made in accordance with this Agreement and by GMP amendments to this Agreement.

5.2.3 GMP amendments are cumulative except for CMAR's Contingency. The amount of CMAR's Contingency for each GMP shall be negotiated separately.

5.2.4 If the GMP requires an adjustment due to changes in the scope of the Work the cost of such changes is determined subject to this Agreement. The markups that may be allowed on such changes shall be no greater than the markups delineated in the approved GMP.

5.3 Contingencies

5.3.1 CMAR's Contingency is an amount CMAR may use at its sole discretion for, an increase in the Cost of Work, and may use for increases in General Conditions Costs with written

approval of the Owner. CMAR's Contingency is assumed to be a direct Project cost and all applicable markups shall be applied at the time of GMP submission.

5.3.2 When CMAR utilizes CMAR's Contingency funds, CMAR shall make the appropriate changes to the Schedule of Values with the next regular progress payment request. CMAR shall deduct the amount of CMAR's Contingency funds used from CMAR's Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were used. If CMAR's contingency funds are used for a new line item that was not given with the original Schedule of Values, these shall be so indicated.

5.3.3 Owner's Contingency are funds to be used at the sole discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen Site conditions. Owner's Contingency shall be added to the GMP amount provided by CMAR, the sum of which shall be the full Contract Price for construction. At the time that Owner's Contingency is used the appropriate markups shall be applied.

5.4 Open Book

5.4.1 CMAR shall submit to the Owner upon request all payrolls, reports, estimates, records and any other data concerning the Work performed or to be performed or concerning materials supplied or to be supplied, as well as Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant progress payment checks. The requirements of this Section shall be included in all Agreements between CMAR and its Subcontractors and Consultants. The Owner may exercise its rights under this Agreement as often as reasonably necessary in the Owner's sole judgment to assure the Owner has a complete and accurate understanding of all Project costs.

5.4.2 Upon Project closeout and immediately prior to the release of final payment, the CMAR shall provide to the Owner a Final Cost Report detailing all Project costs for each division of work with supporting documentation for materials, labor, equipment and other appurtenant items.

Article 6 - Changes to the Contract Price and Time

6.0 Delays to the Work

6.0.1 If CMAR is delayed in the performance of the Work that shall cause a change in the date of Substantial Completion due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own, or, those for whom CMAR is responsible, the Contract Times for performance shall be reasonably extended by Change Order. However, the Owner and the CMAR must agree on the determination of whether acts, omissions, conditions, events, or circumstances are actually beyond the CMARs control and/or whether they are due to no fault of the CMAR, or those for whom CMAR is responsible; if the Owner and the CMAR do not agree, then an independent third party, selected by both parties, shall make the determination of whether acts, omissions, conditions, events, or circumstances are actually beyond the CMARs control and/or whether they are due to no fault of the CMAR, or those for whom CMAR is responsible.

6.0.2 CMAR shall request an increase in the Contract Time by written notice including an estimate of probable effect of delay on progress of the Work within three (3) days of the occurrence of the delay. In the case of a continuing delay only one request is necessary.

6.0.3 By way of example, events that shall entitle CMAR to an extension of the Contract Time include acts or omissions of Owner or anyone under Owner's control (including separate Contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, delays by regulating agencies, wars, floods, labor disputes, unusual delay in transportation,

epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.

6.0.4 If adverse weather conditions are the basis for a request for additional Contract Time, such requests shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled Substantial Completion. All terms, conditions, and definitions necessary for the application of this paragraph shall be as set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

6.0.5 It is understood, however, that permitting CMAR to proceed to complete any Work, or any part of the Work, after the date to which the time of completion may have been extended, shall in no way act as a waiver on the part of the Owner of any of its legal rights herein.

6.0.6 In addition to CMAR's right to a time extension for those events set forth in this Agreement, CMAR shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in this Section that are beyond the control of both CMAR and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God and shall not be adjusted absent a showing of actual damage.

6.1 Differing Site Conditions

6.1.1 If CMAR encounters a Differing Site Condition, CMAR shall be entitled to an adjustment in the Contract Price and/or Contract Times to the extent CMAR's cost and/or time of performance are actually adversely impacted by the Differing Site Condition.

6.1.2 Upon encountering a Differing Site Condition, CMAR shall provide prompt written notice to Owner of such condition, which notice shall not be later than seven (7) days after such condition has been encountered. CMAR shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

6.2 Errors, Discrepancies and Omissions

6.2.1 If CMAR observes errors, discrepancies or omissions in the Contract Documents, CMAR shall promptly notify the Design Professional and request clarification.

6.2.2 If CMAR proceeds with the Work affected by such errors, discrepancies, or omissions, without receiving such clarifications, CMAR does so at its own risk. Adjustments involving such circumstances made by CMAR prior to clarification by the Design Professional shall be at CMAR's risk.

6.3 The Owner Requested Change in Work

6.3.1 The Owner reserves the right to make, at any time during the progress of the Work, such alterations as may be found necessary or in the Owner's best interest.

6.3.2 Such alterations and changes shall not invalidate this Agreement nor release the surety and CMAR agrees to perform the Work as altered, the same as if it has been a part of the original Contract Documents.

6.3.3 The Owner shall request a proposal for a change in Work from CMAR, and an adjustment in the Contract Price and/or Contract Times shall be made based on a mutual agreed upon cost and time.

6.4 Legal Requirements

6.4.1 The Contract Price and/or Contract Times shall be adjusted to compensate CMAR for the effects of any changes in the Legal Requirements enacted after the date of their Agreement or the date of the GMP, affecting the performance of the Work

6.5 Change Directives and Change Orders

6.5.1 Owner and CMAR shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for a Change Directive if any adjustments are appropriate. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the adjustment.

6.5.2 All changes in Work authorized by Change Directives and/or Change Orders shall be performed under the conditions of the Contract Documents.

6.6 Minor Changes in the Work

6.6.1 The Owner has authority to order minor changes in Work that do not materially and adversely affect the Work, including the design, quality, performance, and workmanship required by the Contract Documents. Such changes shall be affected by written order and shall be binding on the Owner and CMAR. CMAR shall carry out such written orders promptly.

6.6.2 CMAR may make minor changes in Work, provided, however that CMAR shall promptly inform Owner, in writing, of any such changes and record such changes, if appropriate, on the Project Record Documents maintained by CMAR.

6.6.3 Minor changes in Work shall not involve an adjustment in the Contract Price and/or Contract Times.

6.7 Contract Price Adjustments

6.7.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

6.7.1.1 Unit prices set forth in this Agreement or as subsequently agreed to between the parties;

6.7.1.2 A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner; and

6.7.1.3 Costs, fees and any other markups.

6.7.2 The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP as shown on Exhibit “B”.

6.7.3 If an increase or decrease cannot be agreed to as set forth in this Agreement and Owner issues a Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in their Agreement. CMAR shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.

6.7.4 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices shall cause substantial inequity to Owner or CMAR because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

6.7.5 If Owner and CMAR disagree upon whether CMAR is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and CMAR shall resolve the disagreement pursuant this Agreement.

6.7.5.1 As part of the negotiation process, CMAR shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations.

6.7.5.2 If the parties are unable to agree and Owner expects CMAR to perform the services in accordance with Owner's interpretations, CMAR shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to CMAR (i) directing CMAR to proceed and (ii) specifying Owner's interpretation of the services that are to be performed.

6.8 Emergencies

6.8.1 In any emergency affecting the safety of persons and/or property, CMAR shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time resulting from emergency work under this Section shall be determined as provided in this Article.

6.9 Force Majeure

6.9.1 The parties acknowledge that there may be events that occur during the term of this Contract that are beyond the control of both the Owner and the CMAR, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God. These events may result in temporary delay or permanent shut down of the work that is the subject of this Contract, as set forth in Exhibit B. This may be caused by such things as stay-at-home orders, loss of labor force, supply chain delays, and other impediments to timely delivery of the Contract.

6.9.2 The parties agree that there will be no claims arising from a temporary delay or permanent shut down caused by the events described above and that the Owner will pay no additional costs incurred as a result of such events.

6.9.3 The parties agree to act in good faith to extend the Contract completion date without any penalty to the CMAR and that the extension will be in an amount of time equal to any temporary delay. This term supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

Article 7- Procedure for Payment

7.0 General

7.0.1 For and in consideration of the faithful performance of the Work herein embraced as set forth in the Contract Documents, which are a part hereof and in accordance with the directions of the Owner and to the Owner’s satisfaction, the Owner agrees to pay CMAR the actual Cost of the Work and any applicable General Conditions Costs including, insurance and bonding, taxes and CMAR’s Construction Fee, but no more than the GMP as adjusted by any change orders. Payment for the specific Work under this Agreement shall be made in accordance with payment provisions detailed below.

7.1 GMP Payment Request

7.1.1 At the pre-construction conference prescribed in this Agreement, CMAR shall submit for Owner’s review and approval a Schedule of Values. The Schedule of Values shall serve as the basis for monthly progress payments made to CMAR throughout the Work.

7.1.2 At least five (5) working days prior to the date established for a Payment Request, CMAR shall submit an updated Project Master Schedule and meet with the Owner's Representative to review the progress of the Work as it shall be reflected on the Payment Request.

7.1.3 The Payment Request shall constitute CMAR's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Payment Request, and that title to all Work shall pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project. The Payment Request shall include, at a minimum:

7.1.3.1 Monthly Executive summary detailing work completed during the pay period, a statement addressing the project budget and schedule and the items of work anticipated for the upcoming pay period

7.1.3.2 Current critical path schedule

7.1.3.3 Pay application cover sheet, detailed schedule of values and conditional lien waivers upon release of progress payment

7.1.3.4 Subcontractor and Supplier invoices and conditional lien waivers for current pay period

7.1.3.5 General Conditions invoices for current pay period

7.1.3.6 Daily Reports for current pay period

7.1.3.7 Weekly reports for current pay period

7.1.3.8 Project meeting minutes for current pay period

7.1.3.9 Certified payroll reports- alphabetical by subcontractor (when required for Davis Bacon projects)

7.1.4 The Payment Request may request payment for stored equipment and materials if construction progress is in reasonable conformance with the approved schedule.

7.1.4.1 For equipment and materials suitably stored at the Site, the equipment and materials shall be protected by suitable insurance and Owner shall receive the equipment and materials free and clear of all liens and encumbrances.

7.1.4.2 For materials and equipment stored off the Site, the Owner must approve the storage. The material and equipment must be stored within Coconino County or other Sites as may be approved and be accessible for Owner's inspection. CMAR must establish Owner title to such materials and equipment or otherwise protect the Owner's interest and shall include applicable insurance, bonding, storage and transportation to the Site.

7.1.4.3 All bonds and insurance required for stored materials shall name the Owner as the loss payee to the extent of its interest in the stored materials.

7.1.5 CMAR shall submit the Payment Request to Owner monthly either on the first of the month for payment on the 15th or on the 19th of the month for payment on the 30th or 31st. If the payment date is on a Saturday, payment shall be on Friday. If the payment date is on a Sunday, payment shall be on Monday.

7.2 Payment of GMP

7.2.1 Owner shall make payment in accordance with A.R.S. § 34-607. Payment shall be made no later than fourteen (14) days after the Payment Request is certified and approved, but in each case less the total of payments previously made, and less amounts properly retained under this Agreement.

7.2.2 Owner shall pay CMAR all amounts properly due. If Owner determines that CMAR is not entitled to all or part of a Payment Request, it shall notify CMAR in writing within (7) days after the date Payment Request is received by the Owner. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures CMAR shall take to rectify Owner's concerns. CMAR and Owner shall attempt to resolve Owner's concerns. If the parties cannot resolve such concerns, CMAR may pursue its rights under the Contract Documents, including those identified in this Agreement.

7.3 Retention of GMP

7.3.1 Owner shall retain ten percent (10%) of each Payment Request amount provided. When fifty percent (50%) of the Work has been completed by CMAR, upon request of CMAR, Owner may reduce the amount retained to five percent (5%) from CMAR's subsequent Payment Requests if CMAR's performance of Work has been satisfactory.

7.3.2 In lieu of retention, CMAR may provide as a substitute, an assignment of time certificates of deposit (CDs) from a bank licensed by the State of Arizona, securities of or guaranteed by the United States of America, securities of counties, municipalities and school districts within the State of Arizona or shares of savings and loan institutions authorized to transact business in Arizona.

7.3.2.1 CDs assigned to the Owner must be maintained at the Owner's single servicing bank, in the form of time deposit receipt accounts.

7.3.2.2 Securities deposited in lieu of retention must be deposited into a separate account with a bank within the State of Arizona.

7.3.2.3 CDs and Securities shall be assigned exclusively for the benefit of the City of Flagstaff pursuant to the Owner's form of Escrow Agreement. Escrow Agreement forms may be obtained from the Purchasing Department by contacting Matthew Luhman, Purchasing Manager.

7.4 Substantial Completion

7.4.1 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to CMAR all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount up to two and one-half (2.5) times the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

7.5 Final Payment

7.5.1 After receipt of a final Payment Request, Owner shall make final payment within sixty (60) days after receipt by the Owner, provided that CMAR has completed all of the Work in conformance with the Contract Documents and a Final Completion Letter has been issued by the Owner.

7.5.2 At the time of submission of its final Payment Request, CMAR shall provide the following information:

7.5.2.1 An affidavit affirming that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which shall in any way affect Owner's interests;

7.5.2.2 A general release executed by CMAR waiving, upon receipt of final payment by CMAR, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment; and

7.5.2.3 Consent of CMAR's surety, if any, to final payment.

7.6 Payments To Subcontractors or Suppliers

7.6.1 CMAR shall pay its Subcontractors or suppliers within seven (7) calendar days of receipt of each progress payment from the Owner. CMAR shall pay for Work performed or materials supplied by each Subcontractor or supplier as accepted and approved by the Owner with each progress payment. In addition, any reduction of retention by the Owner to CMAR shall result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. CMAR shall pay Subcontractors or suppliers the reduced retention within fourteen (14) calendar days of the payment of the reduction of the retention to CMAR. No agreement between CMAR and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided herein.

7.6.2 If CMAR fails to make payments in accordance with these provisions, the Owner may take any one or more of the following actions and CMAR agrees that the Owner may take such actions:

7.6.2.1 Hold CMAR in default under this Agreement;

7.6.2.2 Withhold future payments including retention until proper payment has been made to Subcontractors or suppliers in accordance with these provisions;

7.6.2.3 Reject all future offers to perform work for the Owner from CMAR for a period not to exceed one (1) year from Substantial Completion date of this Project; or

7.6.2.4 Terminate this Agreement.

7.6.3 If CMAR's payment to a Subcontractor or supplier is in dispute, it shall act in compliance with A.R.S. § 32-1129.02(D) and related statutes as amended and shall further hold the Owner harmless from any ensuing damages, claims or costs.

7.6.4 Should the Owner fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this Section or of any of the terms or provisions thereof.

7.6.5 CMAR shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

7.7 Record Keeping and Finance Controls

7.7.1 Records of CMAR's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the Owner and CMAR shall be kept on a generally recognized accounting basis and shall be available for three (3) years after Final Completion of the Project.

7.7.2 The Owner, its authorized representative, and/or the appropriate federal agency, reserve the

right to audit CMAR's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any Change Orders.

7.7.3 The Owner reserves the right to decrease Contract Price and/or payments made on this Agreement if, upon audit of CMAR's records, the audit discloses CMAR has provided false, misleading, or inaccurate cost and pricing data.

7.7.4 CMAR shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the Owner, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.

7.7.5 The Owner reserves the right to decrease Contract Price and/or payments made on this Agreement if the above provision is not included in Subconsultant's and Subcontractor's Agreements, and one or more Subconsultants and/or Subcontractors do not allow the Owner to audit their records to verify the accuracy and appropriateness of pricing data.

7.7.6 The Owner and its employees, agents, and authorized representatives shall have the right at all reasonable times and during all business hours to inspect and examine CMAR's records related to this Agreement. CMAR shall comply with the City of Flagstaff's records retention policy. This record retention requirement shall remain in effect following expiration of the Agreement or termination of the Agreement by either Party.

Article 8 - Claims and Disputes

8.0 Requests for Agreement Adjustments and Relief.

8.0.1 If either CMAR or Owner believes that it is entitled to relief against the other for any event arising out of or related to Work, such party shall provide written notice to the other party of the basis for its claim for relief.

8.0.2 Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of the Agreement.

8.0.3 In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed fourteen (14) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.

8.0.4 Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

8.1 Dispute Avoidance and Resolution

8.1.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, CMAR and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

8.1.2 CMAR and Owner shall first attempt to resolve disputes or disagreements at the field level through discussions between CMAR's Representative and Owner's Representative.

8.1.3 If a dispute or disagreement cannot be resolved through CMAR's Representative and Owner's Representative, CMAR's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties shall exchange relevant information that shall assist the parties in resolving their dispute or disagreement.

8.1.4 Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement shall be filed in the Coconino County Superior Court and Arizona law shall apply and control. In the event any action at law or in equity is instituted between the parties in connection with this Agreement, the prevailing party in the action shall be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

8.2 Duty to Continue Performance.

8.2.1 Unless provided to the contrary in the Contract Documents, CMAR shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to CMAR, pending the final resolution of any dispute or disagreement between CMAR and Owner.

8.3 Representatives of the Parties

8.3.1 The Owner's Representatives

8.3.1.1 The Owner designates the individual listed below or his/her designee as its Senior Representative ("Owner's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under this Agreement:

Patrick Brown, Purchasing Director
City of Flagstaff
211 West Aspen Avenue
Flagstaff, AZ 86001
Phone: (928) 213-2277
pbrown@flagstaffaz.gov

8.3.1.2 Owner designates the individual listed below as its Owner's Representative ("Owner's Representative"), which individual has the authority and responsibility under this Agreement:

Eli Reisner, Capital Improvements Project Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Phone: (928) 213-2679
ereisner@flagstaffaz.gov

8.3.2 CMAR's Representatives

8.3.2.1 CMAR designates the individual listed below as its Senior Representative ("CMAR's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under this Agreement:

Marco Spagnuolo, CEO
Eagle Mountain Construction, Inc.
3100 N Caden Ct
Flagstaff, AZ 86004
(928) 526-2587
Marco@emcaz.com

8.3.2.2 CMAR designates the individual listed below as its CMAR's Representative ("CMAR's Representative"), which individual has the authority and responsibility set forth in this Agreement:

Marco Spagnuolo, CEO
Eagle Mountain Construction, Inc.
3100 N Caden Ct
Flagstaff, AZ 86004
(928) 526-2587
Marco@emcaz.com

Article 9 – Suspension and Termination

9.0 Owner's Right to Stop Work

9.0.1 Owner may, at its discretion and without cause, order CMAR in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and eighty (180) consecutive days.

9.0.2 CMAR may seek an adjustment of the Contract Price and/or Contract Time if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by Owner.

9.1 Termination for Convenience

9.1.1 The Owner may terminate this Agreement at any time for any reason by giving at least thirty (30) days written notice to the CMAR. In such event, Owner shall pay CMAR only the direct value of its completed Work and materials supplied as of the date of termination. CMAR shall be entitled to profit and overhead on completed Work only but shall not be entitled to anticipated profit or anticipated overhead.

9.1.2 If the Owner suspends the Work for one hundred eighty-one (181) consecutive days or more, such suspension shall be deemed a termination for convenience.

9.1.3 Upon such notice of termination for convenience, CMAR shall proceed with the following obligations:

9.1.3.1 Stop Work as specified in the notice.

9.1.3.2 Place no further subcontracts or orders.

9.1.3.3 Terminate all subcontracts to the extent they relate to the Work terminated. CMAR shall ensure that all subcontracts contain this same termination for convenience provision set forth in this Agreement.

9.1.3.4 At the Owner's sole discretion and if requested in writing by the Owner, assign to the Owner all rights, title and interest of CMAR under the subcontracts subject to termination.

9.1.3.5 Take any action that may be necessary for the protection and preservation of the property related to this Agreement that is in the possession of CMAR and in which the Owner has or

may acquire an interest.

9.1.4 CMAR shall submit complete termination inventory schedules no later than one hundred twenty (120) days from the date of the notice of termination.

9.1.5 The Owner shall pay CMAR the following:

9.1.5.1 The direct value of its completed Work and materials supplied as of the date of termination.

9.1.5.2 The reasonable and direct, actual costs and expenses attributable to such termination. Reasonable costs and expenses shall not include, among other things, anticipated profit, anticipated overhead, or costs arising from CMAR's failure to perform as required under this Agreement.

9.1.5.3 CMAR shall be entitled to profit and overhead on completed Work only but shall not be entitled to anticipated profit or anticipated overhead. If it is determined that CMAR would have sustained a loss on the entire Work had they been completed, CMAR shall not be allowed profit and the Owner shall reduce the settlement to reflect the indicated rate of loss.

9.1.6 CMAR shall maintain all records and documents for three (3) years after final settlement. These records shall be maintained and subject to auditing as prescribed in this Agreement.

9.2 The Owner's Right to Perform and Terminate for Cause

9.2.1 If the Owner provides CMAR with a written order to provide adequate maintenance of traffic, adequate cleanup, adequate dust control or to correct deficiencies or damage resulting from abnormal weather conditions, and CMAR fails to comply in a time frame specified, the Owner may have work accomplished by other sources at CMAR's sole expense.

9.2.2 If CMAR persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subconsultants and/or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time, as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in this Agreement.

9.2.3 Upon the occurrence of a terminable event, Owner may provide written notice to CMAR that it intends to terminate this Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of CMAR's receipt of such notice.

9.2.3.1 If CMAR fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to CMAR of its intent to terminate within an additional seven (7) day period.

9.2.3.2 If CMAR, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare this Agreement terminated for default by providing written notice to CMAR of such declaration.

9.2.4 Upon declaring this Agreement terminated, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which CMAR hereby transfers, assigns and conveys to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items.

9.2.5 In the event of such termination, CMAR shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, CMAR shall only be entitled to be paid for Work performed and accepted by the Owner prior to its default.

9.2.6 If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then CMAR shall be obligated to pay the difference to Owner. Such costs and expenses shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the re-procurement and defense of claims arising from CMAR's default.

9.2.7 If Owner improperly terminates the Agreement for cause, the termination for cause shall be converted to a termination for convenience in accordance with the provisions of this Agreement.

9.3 Maintenance During Winter Shutdown of Work; Snow Removal

9.3.1 The Capital Improvements Division of the City of Flagstaff retains the right to declare a Winter Shutdown when, in the opinion of the Owner, it would be unreasonable to continue Work due to adverse weather conditions. The Winter Shutdown determination is at the sole discretion of the Owner. If Work has been suspended due to winter weather, the CMAR shall be responsible for maintenance and protection of the improvements and of partially completed portions of the Work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the CMAR is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the Owner. If the needed repairs and/or maintenance are not addressed within the timeframe, the Owner will accomplish the repairs and/or maintenance and deduct the cost from monies due or become due to the CMAR.

9.3.2 The Owner shall provide snow removal operations on active traffic lanes only. All other snow removal and maintenance operations shall be the responsibility of the CMAR. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations.

9.3.3 Upon termination of the Winter Shutdown by the Owner, the CMAR shall have the right to complete the Work and the Project.

9.3.4 The CMAR shall be solely responsible for any and all costs incurred either as a direct or indirect result of a Winter Shutdown and shall hold the Owner harmless from the same.

Article 10 - Insurance and Bonds

10.0 Insurance Requirements

10.0.1 CMAR and Subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by CMAR, its agents, representatives, employees or Subcontractors.

10.0.2 The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

10.0.3 The Owner in no way warrants that the minimum limits contained herein are sufficient to protect CMAR from liabilities that might arise out of the performance of the work under this Agreement by CMAR, its agents, representatives, employees, or subcontractors. CMAR is

free to purchase such additional insurance as may be determined necessary.

10.1 Minimum Scope and Limits of Insurance

10.1.1 Commercial General Liability - Occurrence Form

General Aggregate/for this Project	$2,000,000/$1,000,000
Products – Completed Operations Aggregate	$1,000,000
Each Occurrence	$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR."**

Additional Insured Status. The insurance coverage, except Workers' Compensation, required by this Agreement, shall name the CITY, its agents, representatives, directors, officials, employees, and officers, as additional insured AND be accompanied by the required endorsement. Such evidence of additional insured status shall be subject to the approval of the Risk Management Department of the City of Flagstaff. The absence of acceptable insurance and endorsement shall be deemed a breach of this Agreement.

10.1.2 Automobile Liability **-** Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.

Combined Single Limit ("CSL")	$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR, including automobiles owned, leased, hired or borrowed by CMAR."**

10.1.3 Worker's Compensation: The CMAR shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes.

10.1.4 Builders' Risk Insurance or Installation Floater $2,956,383

In an amount equal to the initial Contract Amount plus additional coverage equal to Contract Amount for all subsequent change orders.

10.1.4.1 The City of Flagstaff, CMAR, Subcontractors, Design Professional(s) and Design Professional(s)' consultant and any others with an insurable interest in the Work shall be Named Insureds on the policy**.**

10.1.4.2 Coverage shall be written on an all risk, replacement cost basis and shall include coverage for soft costs, flood and earth movement.

10.1.4.3 Coverage shall be maintained until whichever of the following shall first occur: (i) final payment has been made; or, (ii) until no person or entity, other than the City of Flagstaff, has an insurable interest in the property required to be covered.

10.1.4.4 Coverage shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the City.

10.1.4.5 CMAR shall provide coverage from the time any covered property becomes the responsibility of CMAR, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction

installation Site, or awaiting installation, whether on or off Site.

10.1.4.6 Coverage shall contain a waiver of subrogation against the City of Flagstaff.

10.1.4.7 CMAR is responsible for the payment of all policy deductibles.

10.1.5 Umbrella/Excess Liability Insurance not less than $2,000,000 per occurrence combined limit Bodily Injury and Property Damage, that "follows form" and applies in excess of the Commercial General Liability, Automobile Liability as required above.

10.2 Additional Insurance Requirements

10.2.1 The policies shall include, or be endorsed to include the following provisions:

10.2.2 The City, its officers, officials, agents, employees and volunteers shall be additional insured to the full limits of liability purchased by CMAR even if those limits of liability are in excess of those required by this Agreement.

10.2.3 CMAR's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

10.2.4 Coverage provided by CMAR shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

10.2.5 The policies shall contain a Waiver of Subrogation against the City, its officers, officials, agents, and employees for losses arising from work performed by the CMAR for the Owner.

10.3 Notice of Cancellation

10.3.1 Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the Owner. Such notice shall be sent directly to the Purchasing Section by certified mail, return receipt requested.

10.4 Acceptability of Insurers

10.4.1 Insurance is to be placed with insurers who are duly licensed companies in the State of Arizona with an "A.M. Best" rating of A-7, or as approved by the City and licensed in the State of Arizona with policies and forms satisfactory to the Owner. The Owner in no way warrants that the above-required minimum insurer rating is sufficient to protect CMAR from potential insurer insolvency.

10.5 Verification Of Coverage

10.5.1 CMAR shall furnish the Owner with Certificates of Insurance (ACORD form or equivalent approved by the Owner) as required by this Agreement. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

10.5.2 All Certificates of Insurance and endorsements are to be received and approved by the Owner before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to commencement of Work under this Agreement and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

10.5.3 All Certificates of Insurance required by this Agreement shall be sent directly to City's

Purchasing Section. The City project/contract number and project description shall be noted on the Certificate of Insurance. The Owner reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

10.5.4 If the Certificate of Insurance reflecting policy coverage and cancellation notice does not conform to the Owner's requirements, the CMAR must submit a current Certificate of Insurance (dated within fifteen (15) days of the payment request submittal) with each payment request form. The payment request shall be rejected if the Certificate of Insurance is not submitted with the payment request.

10.6 Subcontractors

10.6.1 CMAR's Certificate(s) of Insurance shall include all Subcontractors as additional insureds under its policies. All coverages for Subcontractors shall be subject to the minimum requirements identified above.

10.7 Approval

10.7.1 Any modification or variation from the insurance requirements in this Agreement shall be made by the Owner Attorney's Office, whose decision shall be final. Such action shall not require a formal contract amendment but may be made by administrative action.

10.8 Bonds and Other Performance Security

10.8.1 Prior to execution of this Agreement, CMAR shall provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the GMP.

10.8.2 Each such bond shall be executed by a surety company, or companies, holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two (2) years prior to the execution of this Agreement.

10.8.3 The bonds shall be made payable and acceptable to the City of Flagstaff.

10.8.4 The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in Arizona, as by law required, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.

10.8.4.1 If one Power of Attorney is submitted, it shall be for twice the total GMP amount.

10.8.4.2 If two Powers of Attorney are submitted, each shall be for the total GMP amount. Personal or individual bonds are not acceptable.

10.8.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, CMAR shall promptly furnish a copy of the bonds or shall permit a copy to be made.

10.8.6 All bonds submitted for this project shall be provided by a company which has been rated AM Best rating of "A-,7, or better for the prior four quarters" by the A.M. Best Company.

Article 11 - Indemnification

11.1 CMAR's Liability and Indemnification

11.1.1 To the fullest extent permitted by law, CMAR shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent, reckless, or intentional acts, errors, mistakes, omissions, work or services of CMAR, its employees, agents, or any tier of subcontractors in the performance of this Agreement. CMAR's duty to defend, hold harmless and indemnify the Owner, its agents, representatives, officers, directors, officials and employees shall arise in connection with the claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of CMAR or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services CMAR may be legally liable.

11.1.2 The amount and type of insurance coverage requirements set forth herein shall in no way be construed as limiting the scope of the indemnity in this paragraph.

Article 12 – General Provisions

12.1 Contract Documents

12.1.1 This Agreement, Plans, Standard Specifications and Details, Special Provisions, Addenda (if any) dated the ___ day of _____, 20___ and used as the basis for the Guaranteed Maximum Price Proposal and Guaranteed Maximum Price Proposal, as accepted by the Mayor and Council per Council Minutes the ____ day of _____, 20__, Performance Bond, Payment Bond, Certificates of Insurance, Construction Documents and Change Orders (if any) are by this reference made a part of this Agreement to the same extent as if set forth herein in full.

12.1.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Times for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.

12.1.3 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in the definitions section of this Agreement.

12.1.3.1 On the drawings, given dimensions shall take precedence over scaled measurements, and large-scale drawings over small-scale drawings.

12.1.3.2 Specifications take precedence over Plans.

12.1.3.3 In the event of any inconsistency, conflict, or ambiguity between the Contract Documents and the Design Phase Agreement, the Contract Documents take precedence over the Design Phase Agreement

12.1.4 The headings used in this Agreement, or any other Contract Documents, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.1.5 The Contract Documents form the entire agreement between Owner and CMAR and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

12.2 Amendments

12.2.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

12.3 Time is of the Essence

12.3.1 The Owner and CMAR mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

12.4 Mutual Obligations

12.4.1 Owner and CMAR commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

12.5 Cooperation and Further Documentation

12.5.1 CMAR agrees to provide the Owner such other duly executed documents as shall be reasonably requested by the Owner to implement the intent of the Contract Documents.

12.6 Assignment

12.6.1 CMAR shall not, without the written consent of the Owner, assign, transfer or sublet any portion of this Agreement or part of the Work or the obligations required by the Contract Documents. Notwithstanding the Owner's consent to assignment, CMAR as Assignor, and the Assignee shall both remain liable under all rights, obligations, terms, and conditions of this Agreement.

12.7 Successorship

12.7.1 CMAR and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

12.8 Third Party Beneficiary

12.8.1 Nothing under the Contract Documents shall be construed to give any rights or benefits in the Contract Documents to anyone other than the Owner and CMAR, and all duties and responsibilities undertaken pursuant to the Contract Documents shall be for the sole and exclusive benefit of Owner and CMAR and not for the benefit of any other party.

12.9 Governing Law

12.9.1 This Agreement and all Contract Documents shall be deemed to be made under, and shall be construed, in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto shall be brought in the Superior Court, Coconino County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.

12.10 Severability

12.10.1 If any provision of the Contract Documents or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of the Contract Documents and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

12.11 Compliance with All Laws

12.11.1 CMAR will comply with all applicable Federal, State, County and City laws, regulations and policies. CMAR understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. CMAR agrees to comply with these laws in performing the Agreement and to permit the Owner to verify such compliance.

12.12 Legal Requirements

12.12.1 CMAR shall perform all Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

12.13 Construction Documents

12.13.1 It is not CMAR's responsibility to ascertain that the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. However, if CMAR recognizes that portions of the Construction Documents are at variance therewith, CMAR shall promptly notify the Design Professional and Owner in writing, describing the apparent variance or deficiency.

12.14 Independent Contractor

12.14.1 CMAR is and shall be an independent contractor. Any provisions in the Contract Documents that may appear to give the Owner the right to direct CMAR as to the details of accomplishing the Work or to exercise a measure of control over the Work means that CMAR shall follow the wishes of the Owner as to the results of the Work only. These results shall comply with all applicable laws and ordinances.

12.15 The Owner's Right of Cancellation

12.15.1 All parties hereto acknowledge that this Agreement is subject to cancellation by the Owner pursuant to the provisions of A.R.S. § 38-511.

12.16 Survival

12.16.1 All warranties, representations and indemnifications by CMAR shall survive the completion or termination of this Agreement.

12.17 Covenant against Contingent Fees

12.17.1 CMAR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Owner Council, or any employee of Owner has any interest, financially, or otherwise, in the firm. For breach or violation of this warrant, the Owner shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

12.18 No Waiver

12.18.1 The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of the Contract Documents or any part thereof, or the right of either party to thereafter enforce each and every provision.

12.19 Notice

12.19.1 Notices may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below ***and*** to legal counsel for the party to whom the notice is being given. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

To CMAR:

Eagle Mountain Construction, Inc.
3100 N Caden Ct
Flagstaff, AZ 86004
Attn: Marco Spagnuolo, CEO
(928) 526-2587
Marco@emcaz.com

To Owner:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Patrick Brown, Purchasing Director
Phone: (928) 213-2277
pbrown@flagstaffaz.gov

With a copy to:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Eli Reisner, Capital Improvements Project Manager
Phone: (928) 213-2679
ereisner@flagstaffaz.gov

Design Professional(s):

Shephard Wesnitzer, Inc.
110 West Dale Avenue
Flagstaff, AZ 86001
Attn: Guillermo Cortes, Vice President
Phone: (928) 773-0354
Email: gcortes@swiaz.com

Peak Engineering, Inc.
110 North Agassiz Street
Flagstaff, AZ 86001
Attn: Julie Leid, Principal
Phone: (928) 814-8208
Email: julie@peakegr.com

JE Fuller, Inc.
3111 N Caden Ct #180
Flagstaff, AZ 86004
Attn: Joe Loverich, Project Manager
Phone (928) 214-0887
Email: joe@jefuller.com

12.19.2 Notices Related to Payment, Securities-in-lieu, Bonds. Any notice, request, instruction or other document to be given under this Agreement by any party to any other party related to payment, securities-in-lieu, bonds or other instrument securing the performance of this Agreement, including but not limited to, bid bonds, performance bonds, payment bonds or letters of credit, shall be in writing and shall be delivered in person or by courier or facsimile transmission or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard overnight mail or (c) upon the expiration of three (3) business days after the day mailed by certified mail. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

To CMAR:

Eagle Mountain Construction, Inc.
3100 N Caden Ct
Flagstaff, AZ 86004
Attn: Marco Spagnuolo, CEO
(928) 526-2587
Marco@emcaz.com

To Owner:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Patrick Brown, Purchasing Director
Phone: (928) 213-2277
pbrown@flagstaffaz.gov

With copies to:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Eli Reisner, Capital Improvements Project Manager
Phone: (928) 213-2679
ereisner@flagstaffaz.gov

12.20 Confidentiality of Plans and Specification

12.20.1 Any plans or specifications regarding this Project shall be for official use only. CMAR shall not share them with others except as required to fulfill the obligations of this Agreement with the Owner.

12.20.2 All Record Documents, Shop Drawings and other plans or drawings prepared or submitted by CMAR shall include the following language: “These plans are for official use only and may not be shared with others except as required to fulfill the obligations of the Beulah/University Roadway Project Agreement with the City of Flagstaff.”

12.21 CMAR and Subcontractor Employee Security Inquiries. The parties acknowledge that security measures required in this Section are necessary in order to preserve and protect the public health, safety and welfare. In addition to the specific measures set forth below, CMAR shall take such other measures, as it deems reasonable and necessary to further preserve and protect the public health, safety and welfare.

12.21.1 Security Inquiries. CMAR acknowledges that all of the employees that it provides pursuant to this Agreement shall be subject to background and security checks and screening ("Security Inquiries"). CMAR shall perform all such security inquiries and shall make the results available to Owner for all employees considered for performing work (including supervision and oversight) under this Agreement. Owner may make further security inquiries. Whether or not further security inquires are made by Owner, Owner may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by CMAR for performing work under this Agreement. Employees rejected by Owner for performing services under this Agreement may still be engaged by CMAR for other work not involving the Owner. An employee rejected for work under this Agreement shall not be proposed to perform work under other Owner Agreements or engagements without Owner's prior approval.

12.21.2 Criteria for Evaluating Security Inquiries. Once formally adopted by Owner, criteria for excluding an individual from performing work under this Agreement shall be communicated by Owner to CMAR and used by CMAR as a factor in making its decision. Prior to such adoption, CMAR shall use its best judgment in making its decision using, among other criteria, applicable law, administrative regulations of federal, state and local agencies concerned with work performed under this Agreement, specific local concerns that deal with the specific work and work location(s) of the Project, and standards used by Owner in evaluating its own personnel.

12.21.3 Additional Owner Rights Regarding Security Inquiries. In addition to the foregoing, Owner reserves the right to: (1) have an employee/prospective employee of CMAR be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4); (2) act on newly acquired information whether or not such information should have been previously discovered; (3) unilaterally change its standards and criteria relative to the acceptability of CMAR 's employees and/or prospective employees; and, (4) object, at any time and for any reason, to an employee of CMAR performing work (including supervision and oversight) under this Agreement.

12.21.4 Background and Security-Contracts and Subcontracts. CMAR shall include the security inquiry terms of this Section for employee background and security checks and screening in all contracts and subcontracts for work performed under this Agreement, including supervision and oversight.

12.21.5 Materiality of Security Inquiry Provisions. The security inquiry provisions of this Agreement, as set forth above, are material to Owner 's entry into this Agreement and any breach thereof by CMAR may, at Owner's sole and unfettered discretion, be considered to be a breach of contract of sufficient magnitude to terminate this Agreement. Such termination shall subject

CMAR to liability for its breach of this Agreement.

12.22 Hazardous Materials

12.22.1 Unless included in the Work, if CMAR encounters material on the Site which it reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by applicable law, it shall immediately stop work and report the condition to the Owner.

12.22.2 If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by applicable law, CMAR shall not resume work in the affected area until the material has been abated or rendered harmless. CMAR and the Owner may agree, in writing, to continue work in non-affected areas on the Site.

12.22.3 An extension of Contract Time may be granted in accordance with this Agreement.

12.22.4 CMAR shall comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.

12.23 Computer Systems

12.23.1 CMAR shall warrant fault-free performance in the processing of date and date-related data including, but not limited to calculating, comparing, and sequencing by all equipment and software products, individually and in combination, from the commencement of the Work. Fault-free performance shall include the manipulation of data when dates are in the 20th or 21st centuries and shall be transparent to the user. Failure to comply with "Year 2000" requirements shall be considered a breach of this Agreement.

12.24 Traffic Control

12.24.1 CMAR shall comply with all provisions of the latest version of the Manual on Uniform Traffic Control Devices and any other traffic control provisions as may be provided in the technical specifications.

12.25 No Boycott of Israel

12.25.1 Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Agreement is worth at least one-hundred thousand dollars and no cents ($100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Agreement, will not engage in a boycott of Israel.

12.26 Forced Labor of Ethnic Uyghurs

12.26.1 If CMAR engages in for-profit activity and has ten (10) or more employees, pursuant to A.R.S. §35-394, CMAR certifies that it does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If CMAR becomes aware during the term of the Contract that the company is not in compliance with the written certification, CMAR shall notify the Owner within five business days after becoming aware of the noncompliance. If CMAR does not provide the Owner with a written certification that CMAR has remedied the noncompliance within 180 days after notifying the Owner of the noncompliance, this Contract terminates, except that if the Contract termination date occurs before the end of the remedy period the Contract terminations on the Contract termination date.

This Agreement shall be in full force and effect only when it has been approved and executed by the duly authorized City officials.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this ____ day of _____, 20____.

EAGLE MOUNTAIN CONSTRUCTION, INC.

_____

Print name:_____

Title:_____

CITY OF FLAGSTAFF

_____

Print name:_____

Title:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

EXHIBIT A - PROJECT DESCRIPTION

The Project is composed of seven (7) projects, mainly within the Spruce Wash drainage corridor in and can be generally described as a stormwater infrastructure improvements project. Other components of the Project will be several franchise utility relocations, sewer and water main replacements, and a roadway reprofiling. This project will be delivered through the CMAR project delivery process. This project will be for Phase 1 of the Grandview and Wedge projects. The following is a full detailed description of these projects.

Grandview Drive Reconstruction

The Project includes water and sewer main relocation/replacement on Grandview Drive from Cedar Avenue to Linda Vista Drive including services up to the right-of-way. Water replacements include new hydrants, valves and boxes. Sewer replacements include new manholes and cleanouts. Grandview Drive will be reconstructed from a crowned street with rolled curb to an inverted crown street (valley gutter in the center of the street) with new vertical curb and spill gutter. This will require new driveway aprons and driveway matchups. Street improvements will include matchups to intersecting cul-de-sac streets. A new storm drain system will collect water from the lower end of Grandview Dr. and convey that stormwater via a box culvert or pipe to the Spruce Wash box culvert in Cedar Avenue to the east.

"The Wedge" Detention Basin

The City of Flagstaff owns a ±4.6-acres triangular shaped parcel, "The Wedge", bounded by West Street, Cedar Avenue and the Linda Vista Drive slip lane that could serve as a detention basin. Construction of a basin at this location would require clearing and removing approximately 75,000 CY of excavation, likely with shallow rock. To maximize volume, a 5' tall wall would be constructed along a 300' long section of the basin. An outlet structure and new piping would connect to an existing storm drain system in Cedar Avenue. Guardrail and fencing would also be needed for safety and security. Stormwater would be diverted from Spruce Wash and conveyed to the Wedge via a ±1,300-LF storm drain under Linda Vista Drive. Installation of the storm drain would include a diversion structure at Linda Vista Drive and curb inlets at Grandview Drive. The storm drain crosses several utilities in Linda Vista Drive. which would likely require relocation including franchise utilities and City of Flagstaff sewer and water mains.

EXHIBIT B – APPROVED GMP 1 PROPOSAL

PROJECT #: 03-23014 **DATE: June 12, 2023**

PROJECT NAME: Spruce Wash Watershed Improvements – Phase 1

Attached as a separate document.

June 12, 2023

Eli Reisner,
Project Manager, Capital Improvements
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86004

Re: Spruce Wash Watershed Improvements ("Project")
City of Flagstaff Project # 03-23014
Construction Manager at Risk – Guaranteed Maximum Price ("GMP") 1

Dear Mr. Reisner,

Eagle Mountain Construction ("EMC") is excited to be presenting GMP 1 for the above referenced Project.

The Spruce Wash Watershed Improvements is a "suite" of 8-9 individual projects (pending final designs) along the Spruce Wash drainage corridor. This GMP 1 includes utility removals and replacement along Grandview Dr. (Phase 1), along with the clearing of trees for the Wedge Detention Basin. Phase 1 of Grandview Dr. is tentatively planned to commence in late July or early August of 2023, as the threat of monsoon storms begins to dissipate.

As the remaining suite of projects progress through the design phase, EMC will continue with our Design Phase services, offering constructability reviews, cost and schedule modeling, TAC Meeting attendance, and subsequent GMP development. EMC's services for the balance of the Design Phase are reflected in the General Conditions for Grandview Dr. Phase 1.

We thank you for this opportunity and are proud to be a part of the Team bringing relief to those impacted along the Spruce Wash corridor.

Sincerely,

Eagle Mountain Construction

Marco Spagnuolo
CEO

City of Flagstaff, AZ
211 W Aspen Ave.
Flagstaff, AZ 86001

Eagle Mountain Construction
3100 N Caden Ct.
Flagstaff, AZ 86004

GUARENTEED MAXIMUM PRICE - 1

Project: SPRUCE WASH WATERSHED IMPROVEMENTS
Project #: COF# 03-23014
Dwgs: Final 1 Plans, dated 6-8-23
Submitted: 6/13/2023

				TOTALS		Ph 1 - UTILITY IMPROVEMENTS		
EMC #	*Keynote*	DESCRIPTION	Unit	QTY	Total	QTY	Unit Cost	Total
GRANDVIEW DR. IMPROVEMENTS								
		ROADWAY REMOVALS SUBTOTAL :			$ -			$ -
		ROADWAY CONSTRUCTION SUBTOTAL :			$ -			$ -
	WATER REMOVALS							
	001/002	Sawcut, **R&R** AC pavement (2" thick)	SY	1,282	$ 55,126.00	1,282	$ 43.00	$ 55,126.00
	032	Rem & salvage fire hydrant, R&D valve can	EA	1	$ 800.00	1	$ 800.00	$ 800.00
	035	Rem & dispose water service, salvage meter	EA	59	$ 29,205.00	59	$ 495.00	$ 29,205.00
	036	Abandon water valve	EA	6	$ 2,280.00	6	$ 380.00	$ 2,280.00
	037	Remove & dispose WV, plug or cap tap sleeve	LS	1	$ 780.00	1	$ 780.00	$ 780.00
	038	R&D water main	LF	20	$ 1,000.00	20	$ 50.00	$ 1,000.00
		WATER REMOVALS SUBTOTAL :			**$ 89,191**			**$ 89,191**
	WATER CONSTRUCTION							
	301/302	8" Class 305 C-900 PVC waterline	LF	2,261	$ 237,405.00	2,261	$ 105.00	$ 237,405.00
	310	8" gate valve , box, cover, and assembly	EA	10	$ 21,550.00	10	$ 2,155.00	$ 21,550.00
	320	Fire hydrant assembly	EA	5	$ 34,475.00	5	$ 6,895.00	$ 34,475.00
	330	3/4" copper water service, box & connection	EA	56	$ 113,680.00	56	$ 2,030.00	$ 113,680.00
	331	1" copper water service, box & connection	EA	3	$ 6,945.00	3	$ 2,315.00	$ 6,945.00
	341	Connect with 8"x6" Powerseal	LS	1	$ 3,830.00	1	$ 3,830.00	$ 3,830.00
	350	Extra protection	EA	1	$ 1,715.00	1	$ 1,715.00	$ 1,715.00
	390	T-Top Asphalt Roadway Patch	SY	32	$ 13,760.00	32	$ 430.00	$ 13,760.00
		WATER CONSTRUCTION SUBTOTAL :			**$ 433,360**			**$ 433,360**
	SEWER REMOVALS							
	001/002	Sawcut, **R&R** AC pavement (2" thick)	SY	2,430	$ 104,490.00	2,430	$ 43.00	$ 104,490.00
	040	Remove & dispose sewer line	LF	976	$ 27,328.00	976	$ 28.00	$ 27,328.00
	041	Remove & dispose manhole	EA	7	$ 7,980.00	7	$ 1,140.00	$ 7,980.00
	042	Rem & dispose top of MH, slurry base	EA	5	$ 6,875.00	5	$ 1,375.00	$ 6,875.00
	043	Remove & dispose sewer service	EA	66	$ 61,380.00	66	$ 930.00	$ 61,380.00
	045	Cut, plug, & abandon sewer line.	EA	1	$ 850.00	1	$ 850.00	$ 850.00
		SEWER REMOVALS SUBTOTAL :			**$ 208,903**			**$ 208,903**
	SEWER CONSTRUCTION							
	402	60" manhole (water tight), drop connection	EA	3	$ 33,120.00	3	$ 11,040.00	$ 33,120.00
	404	60" manhole (water tight)	EA	3	$ 32,625.00	3	$ 10,875.00	$ 32,625.00
	405	48" manhole (water tight)	EA	8	$ 70,600.00	8	$ 8,825.00	$ 70,600.00
	410/411	8” dia. SDR-35 PVC sanitary sewer main	LF	2,523	$ 315,375.00	2,523	$ 125.00	$ 315,375.00
	420	4” dia. SDR-35 PVC sewer service & cleanout	EA	41	$ 84,870.00	41	$ 2,070.00	$ 84,870.00
	421	4” dia. SDR-35 PVC deep sew service & CO	EA	18	$ 42,480.00	18	$ 2,360.00	$ 42,480.00
	422	4” dia. SDR-35 PVC ser (asphalt, C&G, SW)	EA	7	$ 41,440.00	7	$ 5,920.00	$ 41,440.00
	490	T-Top Asphalt Roadway Patch	SY	165	$ 26,400.00	165	$ 160.00	$ 26,400.00
		SEWER CONSTRUCTION SUBTOTAL :			**$ 646,910**			**$ 646,910**
		STORM DRAIN REMOVALS SUBTOTAL :			**$ -**			**$ -**
		STORM DRAIN CONSTRUCTION SUBTOTAL :			**$ -**			**$ -**
	ALLOWANCES							
		Contingency #1: Rock Trenching	CY	0	$ -	0	$ -	$ -
		Contingency #2: Utility Trenching Import Backfill (25% of total trench length)	CY	850	$ 46,750.00	850	$ 55.00	$ 46,750.00
		Contingency #3: Sand Bag R&R	LS	1	$ 51,400.00	1	$ 51,400.00	$ 51,400.00
		Contingency #4: Sewer Bypass Pumping	LS	1	$ 45,000.00	1	$ 45,000.00	$ 45,000.00
		Contingency #5: 4” dia. SDR-35 PVC sew srv & cleanout (per Sewer log)	EA	17	$ 40,120.00	17	$ 2,360.00	$ 40,120.00
		Contingency #6: VR 12" Water Main (work in Cedar Ave.)	EA	1	$ 17,500.00	1	$ 17,500.00	$ 17,500.00
		Contingency #7: Remove & Dispose WL	LF	130	$ 5,850.00	130	$ 45.00	$ 5,850.00
		Contingency #8: 1" ARV (w/ AC & Conc R&R)	EA	1	$ 13,500.00	1	$ 13,500.00	$ 13,500.00
	311	Contingency #9: 12" gate valve, box & cover (w/ AC & Conc R&R)	EA	1	$ 17,500.00	1	$ 17,500.00	$ 17,500.00
		ALLOWANCES SUBTOTAL :			**$ 237,620**			**$ 237,620**
	MISCELLANEOUS							
		MOBILIZATION	LS	1	$ 50,000.00	1	$ 50,000.00	$ 50,000.00
		SURVEY & STAKING	LS	1	$ 24,500.00	1	$ 24,500.00	$ 24,500.00
		SWPPP INSTALLATION & MAINTENANCE	LS	1	$ 9,500.00	1	$ 9,500.00	$ 9,500.00
		TRAFFIC CONTROL & MAINTENANCE	LS	1	$ 25,000.00	1	$ 25,000.00	$ 25,000.00
		AS-BUILTS\RECORD DRAWINGS	LS	1	$ 3,300.00	1	$ 3,300.00	$ 3,300.00
		BETA PR (Const & Balance of Design Phase	LS	1	$ 80,000.00	1	$ 80,000.00	$ 80,000.00
		MISCELLANEOUS SUBTOTAL :			**$ 192,300**			**$ 192,300**
		COST OF WORK SUBTOTAL :			**$ 1,808,284**			**$ 1,808,284**

GUARENTEED MAXIMUM PRICE - 1

Project: SPRUCE WASH WATERSHED IMPROVEMENTS
Project #: COF# 03-23014
Dwgs: Final 1 Plans, dated 6-8-23
Submitted: 6/13/2023

					TOTALS		Ph 1 - UTILITY IMPROVEMENTS		
EMC #	*Keynote*	DESCRIPTION	Unit	QTY	Total	QTY	Unit Cost	Total
GENERAL CONDITIONS								
	PE	PROJECT EXECUTIVE	MO	4	$ 52,000	4	$ 13,000	$ 52,000
	PM	PROJECT MANAGER	MO	10	$ 125,000	10	$ 12,500	$ 125,000
	GS	GENERAL SUPERINTENDENT	MO	3	$ 30,000	3	$ 10,000	$ 30,000
	PS	PROJECT SUPERINTENDENT	MO	7	$ 63,000	7	$ 9,000	$ 63,000
	GF	GENERAL FOREMAN	MO	7	$ 42,000	7	$ 6,000	$ 42,000
	8TPU	SUPER PICK-UP TRUCK	MO	7	$ 10,500	7	$ 1,500	$ 10,500
	PA	PROJECT ADMIN	MO	10	$ 50,000	10	$ 5,000	$ 50,000
	Lab	CLEANUP, MAKE-SAFE, SNOW REM LABOR	MO	7	$ 30,800	7	$ 4,400	$ 30,800
	2C1001	CONSTUCTION WATER	MGAL	900	$ 3,600	900	$ 4	$ 3,600
	8TWT 4K	4,000 GA WATER TRUCK	HR	760	$ 19,000	760	$ 25	$ 19,000
	T03	DRIVER - WATER TRUCK	MH	760	$ 21,280	760	$ 28	$ 21,280
	2CONEX	OFFICE, STORAGE & SITE FACILITIES	MO	0	$ -	0	$ 1,850	$ -
	9Y0021	TEMP TOILETS (2 EA)	MO	7	$ 2,800	7	$ 400	$ 2,800
	8BH420	SITE EQUIPMENT	MO	3	$ 15,000	3	$ 5,000	$ 15,000
	3*LH	PPE SAFETY SUPPLIES	LS	1	$ 2,500	1	$ 2,500	$ 2,500
	3*LH	PUNCH LIST & CLEANUP	LS	1	$ 5,000	1	$ 5,000	$ 5,000
	GENERAL CONDITIONS SUBTOTAL :				**$ 472,480**			**$ 472,480**
GRANDVIEW - SUMMARY								
	COST OF WORK				**$ 1,808,284**			**$ 1,808,284**
	GENERAL CONDITIONS (GC'S) (Percent of Cost of the Work)			26%	$ 472,480			$ 472,480
	SUBTOTAL #1 - Cost of the Work + GC's				**$ 2,280,764**			**$ 2,280,764**
	CONSTRUCTION FEE (Fee) (Percentage of Subtotal #1)			10.50%	$ 239,480			$ 239,480
	SUBTOTAL #2 - Cost of the Work + GC's + Fee				**$ 2,520,244**			**$ 2,520,244**
	PERFORMANCE & PAYMENT BOND (Percentage of Subtotal #2)			0.90%	$ 22,682			$ 22,682
	SUBTOTAL #3 - Cost of the Work + GC's + Fee + Bonds				**$ 2,542,926**			**$ 2,542,926**
	INSURANCE (Percentage of Subtotal #3)			1.00%	$ 25,429			$ 25,429
	SUBTOTAL #4 - Cost of the Work + GC's + Fee + Bonds + Insurance				**$ 2,568,356**			**$ 2,568,356**
	SALES TAX (Percentage of GMP)			5.97%	$ 153,279			$ 153,279
	CMAR CONTINGENCY & PRICE ESCALATION FUNDING			3%	$ 50,000			$ 50,000
	GRANDVIEW GMP				**$ 2,771,635**			**$ 2,771,635**
	OWNERS CONTINGENCY (Percentage of Cost of the Work)			3%	$ 50,000			$ 50,000
	GRANDVIEW IMPROVEMENTS - SUBTOTAL				**$ 2,821,635**			**$ 2,821,635**

THE WEDGE DET - IMPROVEMENTS							**PH1 - CLEARING & MOB ONLY**	
	TBD SUBTOTAL :				**$ -**			**$ -**
	TBD SUBTOTAL :				**$ -**			**$ -**
EARTHWORK								
	900/901	Clear & Grub; Remove Trees	AC	2	$ 38,500.00	2	$ 19,250.00	$ 38,500.00
	EARTHWORK SUBTOTAL :				**$ 38,500.00**			**$ 38,500.00**
	TBD SUBTOTAL :				**$ -**			**$ -**
	TBD SUBTOTAL :				**$ -**			**$ -**
	ALLOWANCES SUBTOTAL (TBD) :				**$ -**			**$ -**
MISCELLANEOUS								
		MOBILIZATION	LS	1	$ 15,000.00	1	$ 15,000.00	$ 15,000.00
		SURVEY & STAKING	LS	1	$ 3,500.00	1	$ 3,500.00	$ 3,500.00
		SWPPP INSTALLATION & MAINTENANCE	LS	1	$ 12,250.00	1	$ 12,250.00	$ 12,250.00
		TRAFFIC CONTROL & MAINTENACE	LS	1	$ 1,500.00	1	$ 1,500.00	$ 1,500.00
	MISCELLANEOUS SUBTOTAL :				**$ 32,250.00**			**$ 32,250.00**
	COST OF WORK SUBTOTAL :				**$ 70,750.00**			**$ 70,750.00**
GENERAL CONDITIONS								
	2C1001	CONSTUCTION WATER	MGAL	100	$ 400.00	100	$ 4.00	$ 400.00
	8TWT 4K	4,000 GA WATER TRUCK	HR	40	$ 1,000.00	40	$ 25.00	$ 1,000.00
	T03	DRIVER - WATER TRUCK	MH	40	$ 1,120.00	40	$ 28.00	$ 1,120.00
	2CONEX	OFFICE, STORAGE & SITE FACILITIES	MO	7	$ 12,950.00	7	$ 1,850.00	$ 12,950.00
	9Y0021	TEMP TOILETS (3 EA)	MO	7	$ 4,200.00	7	$ 600.00	$ 4,200.00
	8BH420	SITE EQUIPMENT	MO	4	$ 20,000.00	4	$ 5,000.00	$ 20,000.00
	3*LH	PPE SAFETY SUPPLIES	LS	0	$ -	0	$ 2,500.00	$ -
	3*LH	PUNCH LIST & CLEANUP	LS	1	$ 2,500.00	1	$ 2,500.00	$ 2,500.00
	GENERAL CONDITIONS SUBTOTAL :				**$ 42,170.00**			**$ 42,170.00**
THE WEDGE - SUMMARY								
	COST OF WORK				**$ 70,750**			**$ 70,750**
	GENERAL CONDITIONS (GC'S) (Percent of Cost of the Work)			60%	$ 42,170			$ 42,170
	SUBTOTAL #1 - Cost of the Work + GC's				**$ 112,920**			**$ 112,920**

GUARENTEED MAXIMUM PRICE - 1

Project: SPRUCE WASH WATERSHED IMPROVEMENTS
Project #: COF# 03-23014
Dwgs: Final 1 Plans, dated 6-8-23
Submitted: 6/13/2023

				TOTALS		Ph 1 - UTILITY IMPROVEMENTS		
EMC #	*Keynote* DESCRIPTION	Unit	QTY	Total	QTY	Unit Cost	Total
	CONSTRUCTION FEE (Fee) (Percentage of Subtotal #1)		10.50%	$ 11,857			$ 11,857
	SUBTOTAL #2 - Cost of the Work + GC's + Fee			**$ 124,777**			**$ 124,777**
	PERFORMANCE & PAYMENT BOND (Percentage of Subtotal #2)		0.90%	$ 1,123			$ 1,123
	SUBTOTAL #3 - Cost of the Work + GC's + Fee + Bonds			**$ 125,900**			**$ 125,900**
	INSURANCE (Percentage of Subtotal #3)		1.00%	$ 1,259			$ 1,259
	SUBTOTAL #4 - Cost of the Work + GC's + Fee + Bonds + Insurance			**$ 127,159**			**$ 127,159**
	SALES TAX (Percentage of GMP)		5.97%	$ 7,589			$ 7,589
	CMAR CONTINGENCY & PRICE ESCALATION FUNDING		0.00%	$ -			$ -
	THE WEDGE GMP			**$ 134,747**			**$ 134,747**
	OWNERS CONTINGENCY (Percentage of Cost of the Work)		0.00%	$ -			$ -
	THE WEDGE DETENTION - SUBTOTAL			**$ 134,747**			**$ 134,747**

	SPRUCE WASH DRAINAGE IMPROVEMENTS - GMP SUMMARY			**TOTAL**
	COST OF WORK			$ 1,879,034
	GENERAL CONDITIONS (GC'S) (Percent of Cost of the Work)		27.39%	$ 514,650
	SUBTOTAL #1 - Cost of the Work + GC's			**$ 2,393,684**
	CONSTRUCTION FEE (Fee) (Percentage of Subtotal #1)		10.50%	$ 251,337
	SUBTOTAL #2 - Cost of the Work + GC's + Fee			**$ 2,645,021**
	PERFORMANCE & PAYMENT BOND (Percentage of Subtotal #2)		0.90%	$ 23,805
	SUBTOTAL #3 - Cost of the Work + GC's + Fee + Bonds			**$ 2,668,826**
	INSURANCE (Percentage of Subtotal #3)		1.00%	$ 26,688
	SUBTOTAL #4 - Cost of the Work + GC's + Fee + Bonds + Insurance			**$ 2,695,514**
	SALES TAX (Percentage of GMP)		5.97%	$ 160,868
	CMAR CONTINGENCY & PRICE ESCALATION FUNDING		3%	$ 50,000
	GUARENTEED MAXIMUM PRICE			**$ 2,906,383**
	OWNERS CONTINGENCY (Percentage of Cost of the Work)		3%	$ 50,000
	CONTRACT PRICE			**$ 2,956,383**

CITY OF FLAGSTAFF
CONTRACT SUPPLEMENTARY JUSTIFICATION
Design-Build OR CMAR Contracts

PROJECT NO. WS3527 & WS3570 **PROJECT NAME:** Grandview Drive Reconstruction & The Wedge

FILE NO. 03-23014 & 03-23015 **Project Manager:** Eli Reisner

CONTRACTOR/CONSULTANT: Eagle Mountain Construction (EMC)

PROJECT DESCRIPTION:
The Grandview Utilities and Wedge Clearing portion of the Spruce Wash Flood Mitigation Suite of Projects funded by Proposition 441 and delivered through the CMAR project delivery method. The underground utilities portion of the Grandview Project generally consist of replacing and lowering the existing underground water and sewer infrastructure prior to the construction of the inverted crown and vertical curbs on Grandview Drive from Cedar Avenue to Linda Vista and the associated side-streets to increase stormwater capacity of the roadway. The improvements with the clearing of the Wedge Project generally consist of removing trees in the footprint of the detention basin for the Wedge Project and preparing the area to be used as a temporary construction yard for the Spruce Wash Flood Mitigation Suite of Projects.

JUSTIFICATION FOR USE AND AMOUNT:

Contractor's Contingency Justification and Amount:
Contractors Contingency of $50,000.00 was negotiated and was recognized to be necessary to compensate Eagle Mountain Construction to address the following items where details could not be determined at the time of contracting:

- Increase in material costs.

Owner's Contingency Justification and Amount:
Owner's Contingency of $50,000.00 was recognized to be necessary to compensate EMC to address the following items where details could not be determined at the time of contracting:

- Additional unidentified services, unsuitable native material, and other unidentified differing site conditions.

The $50,000.00 Owner's Contingency is roughly 2% of the $2,906,383.00 Guaranteed Maximum Price proposed by EMC to complete the Project, which combined equals the Total Contract Price of $2,956,383.00. If this Project were utilizing tradition project delivery methods, this amount would be within the allowable limits for a Contract Allowance per the Procurement Code revisions approved by Council on April 16, 2019.

COST/BUDGET/FUNDING SOURCE ANALYSIS:

Contractor's Contingency:
The Contractor's Contingency is recommended to be included in the Total Contract Price and can be funded by the Grandview and Wedge FY24 appropriations of $5,853,826 and $5,985,470 in accounts 410-08-385-3527-3 and 410-08-385-3570-3, respectively.

Owner's Contingency:
The Owner's Contingency is recommended to be included in the Total Contract Price and can be funded by the Grandview and Wedge FY24 appropriations of $5,853,826 and $5,985,470 in accounts 410-08-385-3527-3 and 410-08-385-3570-3, respectively.

APPROVAL: **Signature** **Date:**

Project Manager _____ **Approval Recommended** 6/14/2023

Program Manager _____ **Approval Recommended** _____

Section Head Trevor Hering **Approval Recommended** 6/14/2023

Division Head _____ **Approval Recommended** 6/15/2023

Definitions

Owner's Contingency (Design/Build or Construction Manager at Risk)

"Owner's Contingency" means a fund to cover cost growth during the Project used at the discretion of the City usually for costs that result from City's directed changes or Differing Site Conditions, or as the City may otherwise elect. The amount of the Owner's Contingency will be set solely by the City and will be in addition to the Project costs included in the Design-Builder's GMP packages.

The Owner's Contingency are funds to be used at the sole discretion of the City to cover any increases in Project costs that result from City directed changes, Differing Site Conditions, or as the City may otherwise elect. Owner's Contingency will be added to the GMP amount provided by the Design-Builder/CMAR, the sum of which will be the full Contract Price for construction. Markups for Construction Fee and taxes will be applied by the Design-Builder at the time that Owner's Contingency is used

Contractor's Contingency (Design/Build or Construction Manager at Risk)

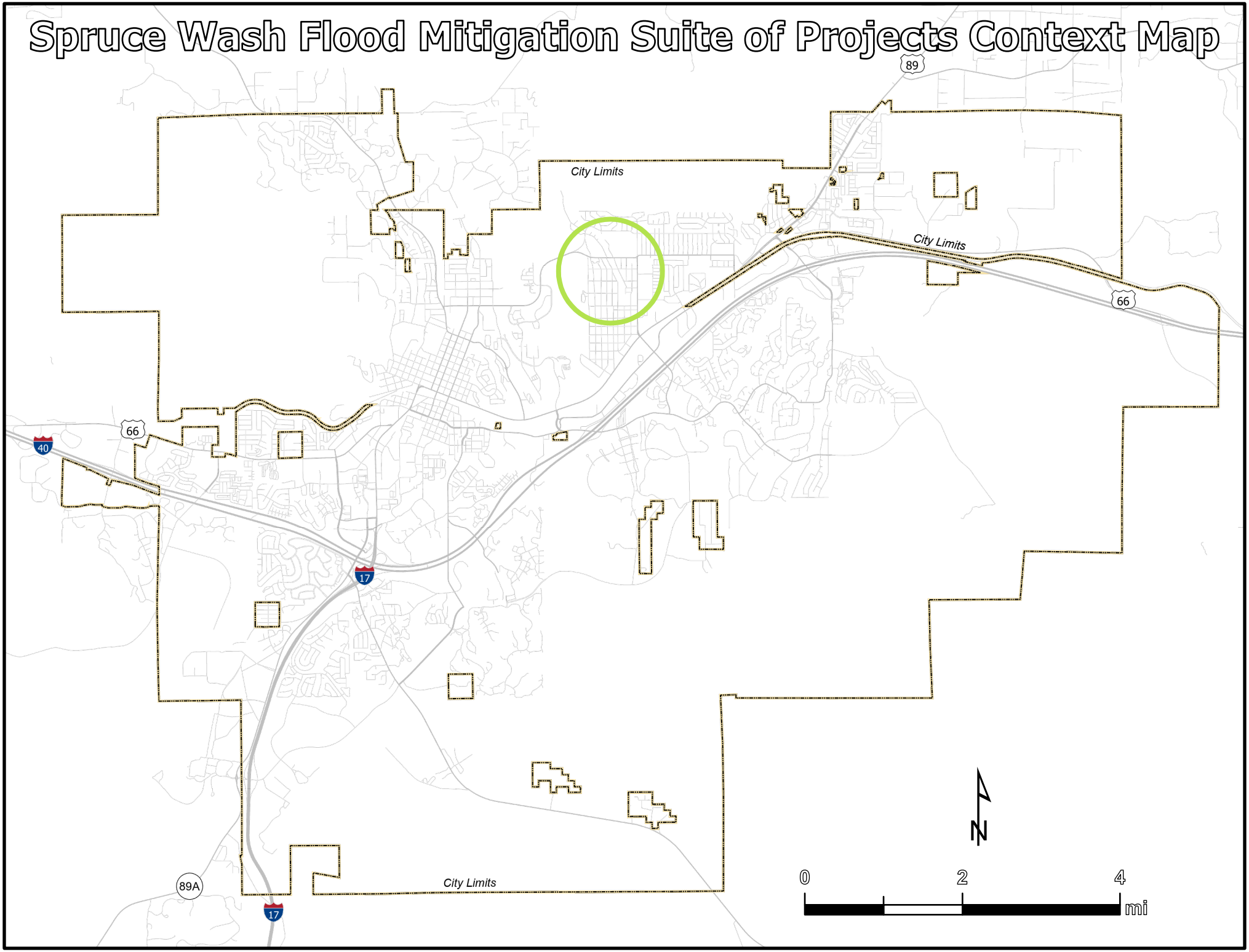
"Design-Builder's/CMAR Contingency" means a fund to cover cost growth during the Project used at the discretion of the Design-Builder/CMAR, usually for costs that result from Project circumstances. The amount of the Design-Builder's/CMAR Contingency will be negotiated as a separate line item in each GMP package.

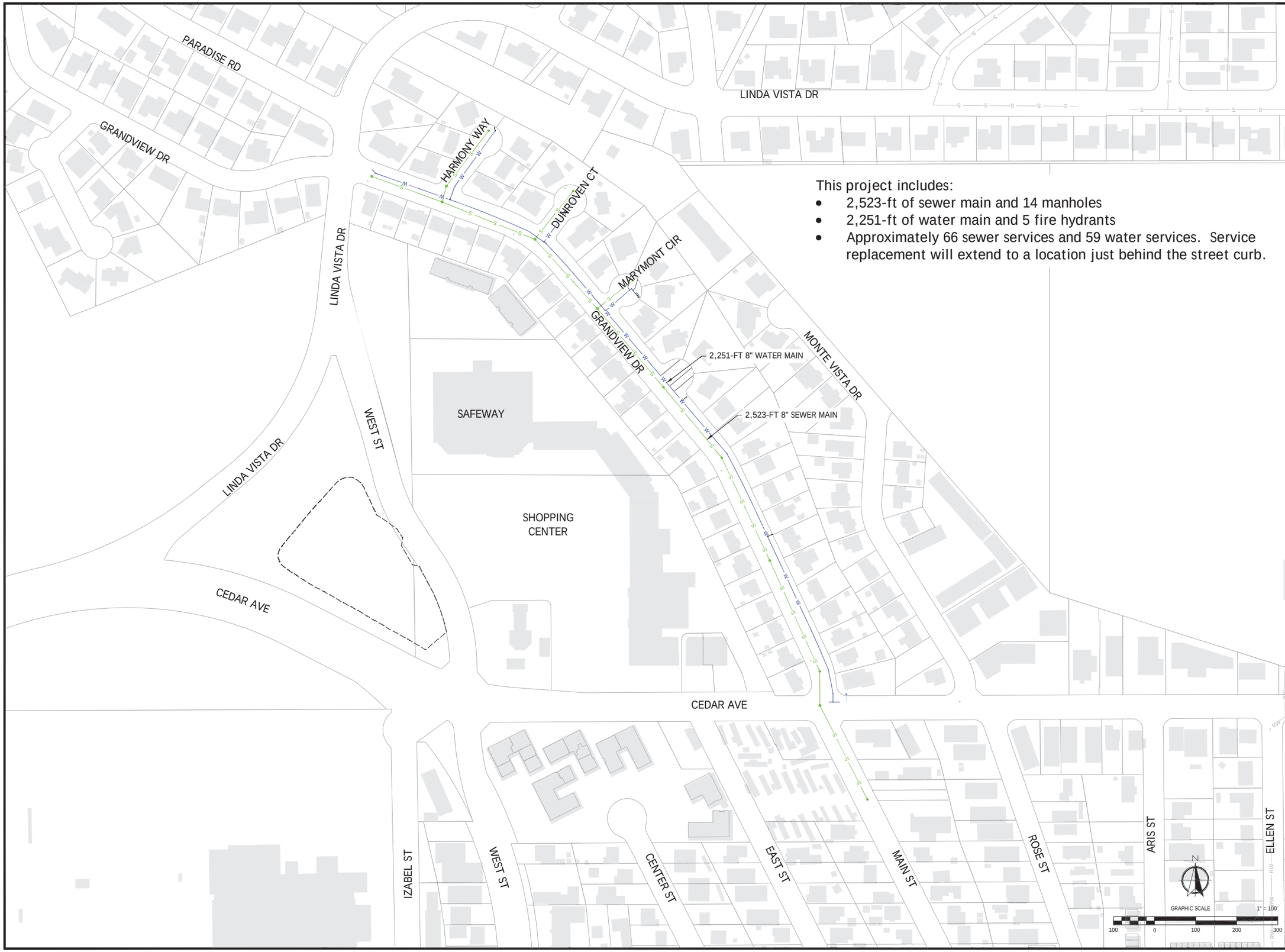
Use and management of the Design-Builder's/CMAR Contingency:

Design-Builder's/CMAR Contingency is an amount the Design-Builder/CMAR may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of the City for increases in General Condition Costs. Design-Builder/CMAR Contingency is assumed to be a direct Project cost so will receive all markups at the time of GMP submission.

When the Design-Builder/CMAR utilizes Design-Builder's/CMAR Contingency funds, the Design-Builder/CMAR shall make the appropriate changes to the Schedule of Values with the next regular progress Payment Request. The Design-Builder/CMAR shall deduct the amount of Design-Builder's/CMAR Contingency funds used from the Design-Builder's/CMAR Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were used. If the Design-Builder's/CMAR Contingency funds are used for a new line item that was not given with the original Schedule of Values, that will be so indicated.

Spruce Wash Flood Mitigation Suite of Projects Context Map





This project includes:

- 2,523-ft of sewer main and 14 manholes
- 2,251-ft of water main and 5 fire hydrants
- Approximately 66 sewer services and 59 water services. Service replacement will extend to a location just behind the street curb.

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA 811
Call 811 or click Arizona811.com

SPRUCE WASH

REVISION	DESCRIPTION	DATE

201 E. Birch Ave., Suite 3
Flagstaff, AZ 86001
(928) 774-4046

Peak ENGINEERING, INC.
Connecting Place to People

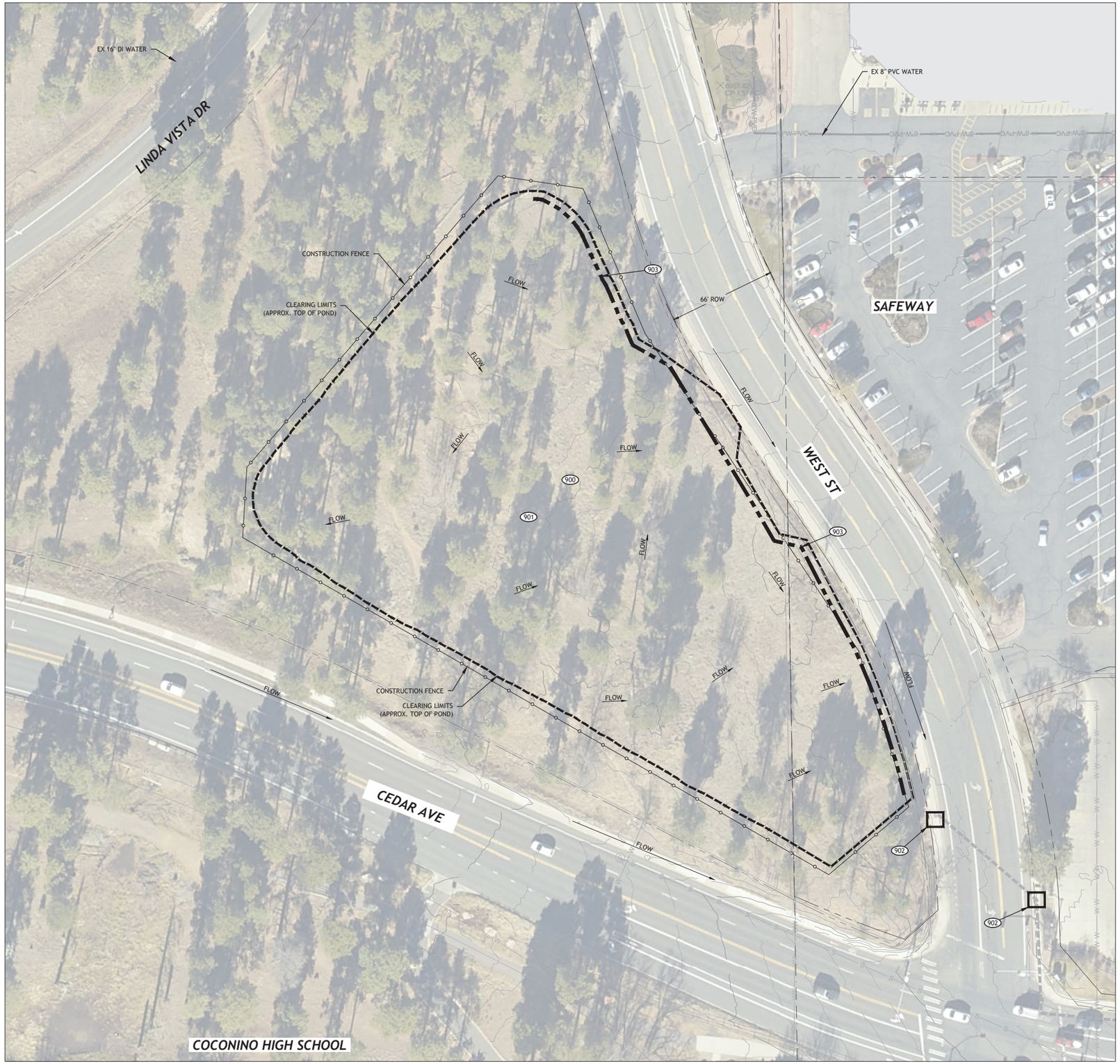
Preliminary
Not For
Construction

CITY OF FLAGSTAFF
SPRUCE WASH WATERSHED IMPROVEMENTS
GRANDVIEW DRIVE UTILITY IMPROVEMENTS
UTILITY PROJECT MAP

COF PROJECT NO. 03-23014

JOB NO:23COF01
DATE: JUNE 2023
BY: DCW
CHECKED: CAL/JOL

UT-1



CONSTRUCTION NOTES

EROSION CONTROL (900)

900 1.95 ACRES
CLEAR AND GRUB WITHIN THE CLEARING LIMITS PER MAG SPEC 201.

901 1 LS
REMOVE & DISPOSE TREES WITHIN THE CLEARING LIMITS.

902 2 EA
GRAVEL BAG PER DETAIL ES9.

903 460 LF
9" WATTLE PER DETAIL ES3.

910 NPI
STABILIZED CONSTRUCTION ENTRANCE PER DETAIL ES11, SHEET C3.0. PLACEMENT OF CONSTRUCTION ENTRANCE(S) SHALL BE DETERMINED IN THE FIELD AND RELOCATED AS NEEDED TO ACCOMMODATE CONSTRUCTION TRAFFIC.

911 NPI
CONTRACTOR TO COORDINATE WITH CITY OF FLAGSTAFF FOR LOCATION OF DESIGNATED CONCRETE WASHOUT. CONCRETE WASHOUT SHALL BE CONTAINED AND PROPERLY DISPOSED OF UPON COMPLETION.

LEGEND

FLOW GENERAL DIRECTION OF STORMWATER FLOW

N

GRAPHIC SCALE 1" = 30'

30 0 30 60 90

FINAL 1 PLANS

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811
Call 811 or click Arizona811.com

SPRUCE WASH

REVISION	DESCRIPTION	DATE

201 E. Birch Ave., Suite 3
Flagstaff, AZ 86001
(928) 774-4046

Peak ENGINEERING, INC.
Connecting Place to People

CERTIFICATE NO. 47069
JULIE O. LEID
DATE SIGNED
ARIZONA U.S.A.
EXPIRES

CITY OF FLAGSTAFF
SPRUCE WASH WATERSHED IMPROVEMENTS
WEDGE DETENTION BASIN IMPROVEMENTS
WEDGE DET. CLEARING LIMITS & ECP
COF PROJECT NO. 03-23015

JOB NO: 23COF05
DATE: JUNE 2023
BY: DMP/CAL
CHECKED: CAL/JOL

C2.0

9. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Jeremy DeGeyter, Project Manager
Co-Submitter:	CJ Perry
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Lumen Utility Relocation for the Rio de Flag Flood Control Project and Addition of City Fiber Conduit

STAFF RECOMMENDED ACTION:

1. Approve the Lumen Utility Relocation and City Fiber Addition Proposal and a Not-to-Exceed (NTE) payment authority of $250,000; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Approval of the Lumen agreement will compensate Lumen for relocating facilities within the BNSF right-of-way as required to accommodate the Rio De Flag Flood Control and Utility Relocation Project and necessary for the U.S. Army Corps of Engineers (USACE) to certify the real estate for construction based on the needed lands, easements, rights-of-way, relocations, and disposal site (LERRD) for the Rio de Flag Flood Control Project. Approval will also compensate Lumen for additional work at the request of the City to include two City ITS Fiber conduits in their utility relocation work scope. Lumen is responsible for utility relocation costs within public City of Flagstaff and Arizona Department of Transportation rights-of-way.

While coordinating Lumen's required utility relocation for the Rio de Flag Flood Control Project, staff recognized this utility relocation as an opportunity to improve City Fiber infrastructure and support the Council approved construction project to connect fiber from City Hall to Butler Ave/Beaver St. Lumen was agreeable to add two 4-inch conduits to its work scope, installing new City Fiber conduit from Phoenix Avenue to the alleyway on Beaver Street near the former City Court Facility. This will improve fiber connectivity and redundancy and provide an important crossing of BNSF Railway and ADOT rights-of way.

Financial Impact:

The funding to pay the proportional share of the relocation cost will come from the Stormwater Fund, tracked in the Rio de Flag project account #206-08-385-3236-0-XXXX.

The cost for the City ITS Fiber Conduits proportional share will be paid by Information Technology, Account Number 001-01-014-6312-1-4407. The Fiber conduits are being procured via a Sole Source procurement.

Policy Impact:

No Impact.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Rio de Flag Flood Control and City Fiber Connections:

Priority Based Budget Key Community Priorities and Objectives

- Deliver outstanding services to residents through a healthy, well maintained infrastructure system.
- Strengthen Flagstaff's resilience to climate change impacts on built, natural, economic, health, & social systems.
- Utilize existing long-range plan(s) that identify the community's future infrastructure needs & all associated costs.

Carbon Neutrality Plan

- Encourage vibrancy, appropriate density, and attainability in existing neighborhoods, so that more residents live within walking distance of their daily needs.
- Create inclusive networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient for people of all ages.

Regional Plan

- Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.
- Increase the region's preparedness for extreme climate events.
- Incorporate pedestrian access, trails, and watchable wildlife opportunities into natural watercourses when practical.
- Improve mobility and access throughout the region.
- Increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community.

Has There Been Previous Council Decision on This:

Previous City Council actions have approved multiple changes to authorized value changes and action items necessary for the continuation of the Rio de Flag Flood Control Project since FY 2004-2005.

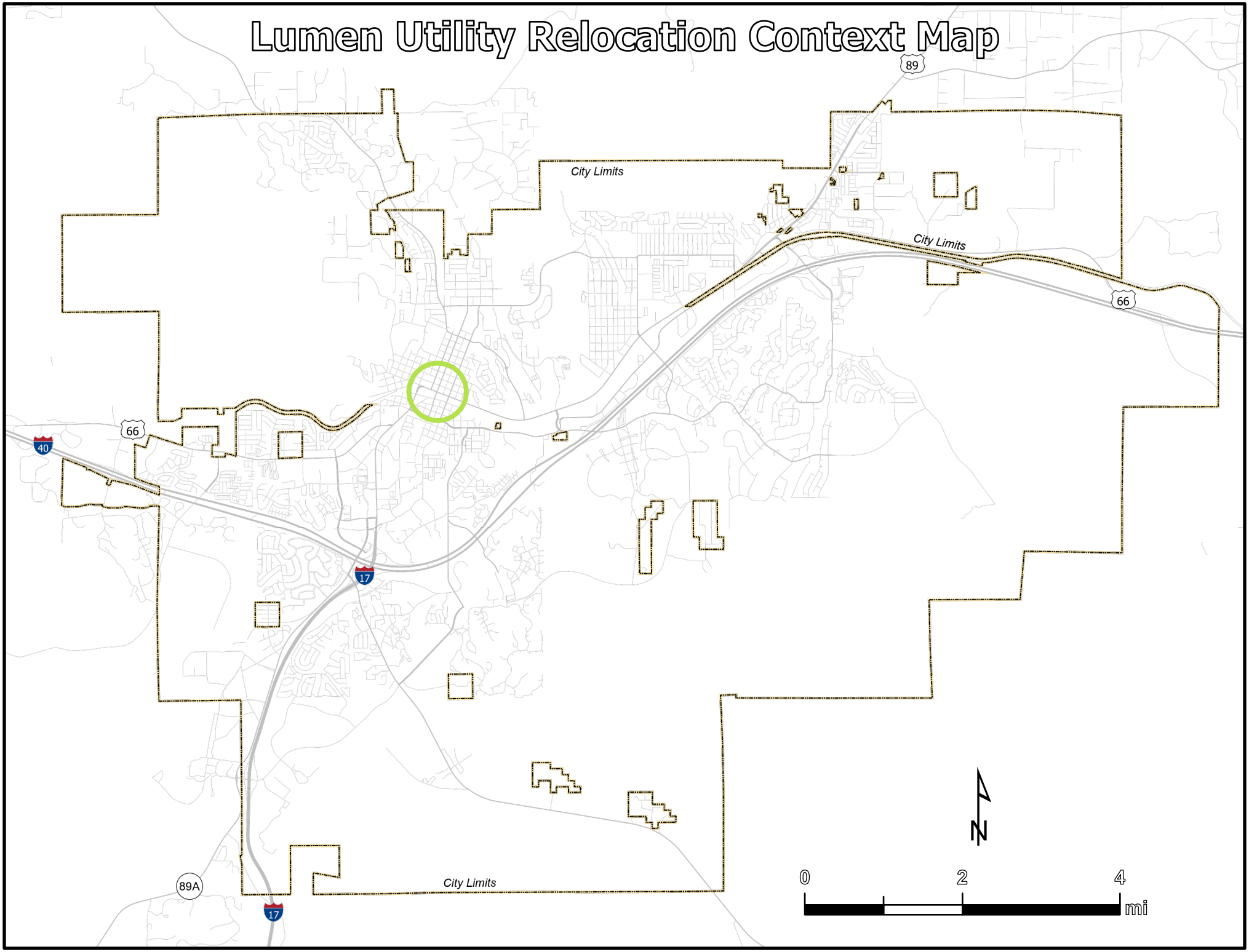
Council approved the construction contract with Aspen Communications to connect conduit and fiber from City Hall to Butler/Beaver on Oct 4, 2022. Council has approved additional fiber projects, including some with Aspen Communications, at multiple other locations including the new Courthouse, USGS, Butler Traffic Signals, and others.

Options and Alternatives:

1. Approve the Lumen Utility Relocation proposal as recommended; or
2. Reject the Lumen Utility Relocation proposal which will forfeit the opportunity for the City to comply with its requirement to provide the estate necessary to allow the USACE to certify the real estate for the Rio de Flag Flood Control Project and forgo an opportunity to improve the City Fiber Conduit network.

Attachments: Context Map
Vicinity Map
Lumen Proposal/Agreement
Lumen Cost Letter

Lumen Utility Relocation Context Map





Lumen Utility Relocation Vicinity Map

0 95 190 380 570 760

ft

City of Flagstaff maps and data are updated on a regular basis from data obtained from various sources. The City of Flagstaff endeavors to provide accurate information, but accuracy is not guaranteed. You are strongly encouraged to obtain any information you need for a business or legal transaction from a surveyor, engineer, title company, or other licensed professional as appropriate. Information is provided subject to the express condition that you knowingly waive any and all claims for damages against the City of Flagstaff relating to use of this information.

6/15/2023 7:28 AM

CenturyLink™

Contract No No
Job Authorization No: N690984

Special Construction Proposal

CTL Affiliate: Qwest Corporation

Date: 06/14/2023

Billing Address:

Customer: City of Flagstaff

Attention: Jeremy DeGeyter

211 W. Aspen Ave.
Flagstaff, AZ 86001

Work Location:

Beaver St & Phoneix Avenue

County: Coconino

Flagstaff, AZ

This Proposal is governed by the terms and conditions set forth herein as well as any applicable state or federal tariffs filed with the appropriate state or federal regulators. Description and/or specifications of work to be performed by an operating affiliate of CenturyLink Inc. ("CenturyLink") under this Proposal ("Work") is as follows:

City of Flagstaff's request to clear conflict w/ proposed Box culvert and storm drain installation w/ City's request for two additional conduits to be placed for the City, Details & cost estimate: Place/Bore conduits under BNSF RR w/16" steel sleeve. Overall new conduit placement (to result in 2 X 4.00" HDPE conduits placed for City of Flagstaff) Overall placement parallel to Beaver St between STA 3+65.8 and STA 9+45.7 per drwgs within both BNSF RR ROW and Public ROW. Est: City of Flagstaff cost: $201,415.96 and CenturyLink's cost: $633,872.46. City of Flagstaff responsible to reimburse CenturyLink QC for actual final costs. We respectfully request 50% payment up front ($100,707.98). With Purchase Order for $201,415.96 noting intended 50% pre-payment w/balance of final actual costs due at completion (Est: $100,707.98) Please ref attached drwgs.

*City of Flagstaff shall be named as a 3rd Party beneficiary in the contract between CenturyLink and its OSP contractor in regard to required workmanship standards being met by CenturyLink's OSP contractor for installation of the 2 X 4.00" HDPE conduits being placed for the City. CenturyLink will provide City with a copy of relevant, redacted portions of such contract. (Reference CenturyLink vendor: TBD based on bid process to multiple certified, insured & vetted CenturyLink vendors). CenturyLink will also require its OSP contractor to include City of Flagstaff as an additional insured under its standard commercial insurance policies in relation to the installation work referenced, above. CenturyLink or it's Contractor/Subcontractor will coordinate with City of Flagstaff network services contractors (Aspen Communications and its subcontractor NCS) regarding schedule & on-site progress

Advance Payment (50% required before work begins): $100,707.98

Total Estimated Charges: Two Hundred and One Thousand Four Hundred Fifteen and 96/100

Customer shall indicate its acceptance of this Proposal by signing where indicated below. The date of Customer's signature shall be the effective date of this Proposal (the "Effective Date"). Upon such acceptance by Customer, this Proposal and the terms and conditions of any applicable Tariffs shall constitute a binding agreement. For the Work performed hereunder, Customer will be responsible for the actual charges incurred by the Lumen affiliate performing the Work ("Provider"). The estimated charges above shall be paid prior to commencement of the Work ("Advance Payment"). Amounts due from Customer in excess of the Advance Payment shall be paid by Customer within thirty (30) days of invoice, or such longer time, if any, as set forth on such invoice. Refunds due Customer, if any, shall be refunded if and as required by applicable Tariffs. All past due, undisputed amounts due from Customer to Provider will be assessed a late fee at 14% APR. Where applicable, Customer shall also be responsible for foreign, federal, state and local taxes assessed in connection with the Work, including without limitation, all use, sales, value added, surcharges, excise, franchises, commercial, gross receipts, license, privilege or other similar charges, whether charged to or against Provider or Customer, but excluding any taxes based on Provider's net income.

The Work in this Proposal is separate from any work that may be performed pursuant to any other order or agreement, including but not limited to a Pre-Service Request for cell site provisioning. This Proposal shall be deemed withdrawn by Provider if not accepted by Customer within thirty (30) days of the date of this Proposal. Except for Proposals signed by Governmental Customers, if Provider has not received the Advance Payment within thirty (30) days of the Effective Date, this Proposal will automatically expire without further action by either party.

Customer

Authorized Signature: _____

Name Printed/Typed: _____

Title: _____

Date: _____

Via Email Delivery. This Agreement supersedes previously dated Agreements regarding relocation of the Facilities.

6/14/2023

VIA EMAIL: Jeremy DeGeyter <JDeGeyter@flagstaffaz.gov

Jeremy DeGeyter, P.E. - Project Manager

City of Flagstaff
211 W. Aspen Ave
Flagstaff AZ, 86001

Re: Cost letter for City of Flagstaff - Lumen Affiliate, CenturyLink QC (Qwest Corp), Underground utility Relocation – at Rio de Flag Flood Control (Vicinity of Beaver St, Phoenix Ave & Rte 66, Flagstaff AZ)

Dear Jeremy,

In response to the City of Flagstaff's request to clear conflict with the proposed Box culvert and storm drain installations, and City's request for two additional conduits to be placed, CenturyLink QC has determined the details and cost quote below.

The required design requires re-boring conduits under BNSF Railroad with 16" steel sleeve to attain the necessary depth to clear conflict. CenturyLink QC/ Qwest Corp facilities have prior rights within the existing BNSF RR crossing location at Beaver Street referenced on the drwg pkg.

The City of Flagstaff will be responsible for relocation costs specifically within the RR ROW and for the pro-rata share of the overall new conduit placement (to result in 2 X 4.00" HDPE conduits being placed for final ownership of City of Flagstaff)

This overall underground placement parallel to Beaver Street between STA 3+65.8 and STA 9+45.7 per the drawing within both BNSF RR ROW and Public ROW.

Overall Project cost estimate is: $835,288.42 **Estimated City of Flagstaff cost burden is $201,415.96** and CenturyLink's cost burden is: $633,872.46.

Stated cost is a detailed estimate and City of Flagstaff will be responsible to reimburse CenturyLink QC for actual final costs. **We respectfully request 50% payment up front ($100,707.98). With Purchase Order for $201,415.96 noting intended 50% pre-payment with billing for balance of final actual costs due at completion ($100,707.98)**. A standard Proposal requiring signature will be forthcoming.

Please reference the provided design drawings.

*City of Flagstaff shall be named as a 3rd Party beneficiary in the contract between CenturyLink and its OSP contractor in regard to required workmanship standards being met by CenturyLink's OSP contractor for installation of the 2 X 4.00" HDPE conduits being placed for the City. CenturyLink will provide City with a copy of relevant, redacted portions of such contract. (Reference CenturyLink vendor: TBD based on bid process to multiple certified, insured & vetted CenturyLink vendors). CenturyLink will also require its OSP contractor to include City of Flagstaff as an additional insured under its standard commercial insurance policies in relation to the installation work referenced, above. CenturyLink or it's Contractor/Subcontractor will coordinate with City of Flagstaff network services contractors (Aspen Communications and its subcontractor NCS) regarding schedule & on-site progress

Thank you for your assistance in this matter.

Best Regards,

Mike Weaver
Sr Lead Project Manager, OSP Road Moves/Relocations Agreements & Reimbursement

cc: Martin Samaniego, Lumen and Jason Jensen, Terra Tech

Please see attached cost breakdown:

CenturyLink	Relocation Project Cost Estimate	
Estimate Valid within 30 Days from:	**6/12/2023**	
Relocation Project Tracking #:	**P-075624**	
Project Name:	**RDMV-FLAGSAZMA-RIO DE FLAG PHASE 1 - (CITY OF FLAGSTAFF)**	
Customer Name:	**City of Flagstaff**	
Internal Project Code	**N.690984.C.10**	
GL Code:	**#N/A**	
Legacy Network Builder:	**CenturyLink QC**	
RELO PM Contact Info:	**Mike Weaver; 919-710-8891**	
Invoice Number:	**TBD**	
Customer Number:	**#N/A**	
Description	**Cost**	
Outside Plant Construction / Materials	$529,068.39	
Engineering / Inspection	$33,699.00	
Copper Splicing	$81,199.64	
Fiber Optic Testing / Splicing	$73,226.26	
Special Permits / RR / Traffic Control	$22,000.00	
Subtotal:	$739,193.29	
Internal G&A Cost	$96,095.13	
Total Costs:	$835,288.42	
City of Flagstaff Conduit cost	**$85,410.88**	**10.225% of Total**
City of Flagstaff - Reimb for Relo within BNSF RR ROW	**$116,005.08**	**13.888% of Total**
	$201,415.96	

9. E.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Jacob Raatz, Climate and Energy Contractor
Co-Submitter:	Jenny Niemann
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Revised Grant Agreement: Revised Grant agreement between the U.S. Department of Housing and Urban Development and the City of Flagstaff for the Flagstaff Home Energy Retrofit Program for low-income and vulnerable families.

STAFF RECOMMENDED ACTION:

Approve the revised U.S. Department of Housing and Urban Development grant for FY2022 Economic Development Initiative, Community Project Funding Grant (B-22-CP-AZ-0018), in the amount of $750,000 for the Flagstaff Home Energy Retrofit Program for low-income and vulnerable families.

Executive Summary:

The U.S. Department of Housing and Urban Development (HUD) has approved Community Project Funding for the FY2022 Economic Development Initiative, Community Project Funding (CPF) /congressionally directed spending grant, as funded by the Congress in the Consolidated Appropriations Act, 2022 (PL 117-103) (the Act) and as described in the Explanatory Statement accompanying the Act. This revised CPF grant funding will be used to provide home energy retrofits to residents through the Flagstaff Home Energy Retrofit Program. The program aims to help low-income and vulnerable households make home investments that will save energy, lower utility bills, improve health, and reduce greenhouse gas emissions.

This program will build on a former energy retrofit program run by the City of Flagstaff from 2011 – 2014, funded partly by the Energy Efficiency Conservation Block Grant program. The City will use the framework from the past award-winning program to rapidly develop a revamped program that focuses specifically on low-income and vulnerable households and home electrification.

The program will be managed by City of Flagstaff staff in collaboration with local contractors and other regional partners. Administrative tasks include application intake, verifying requested repairs, procurement, verifying completion, contractor payment, and file documentation. The City will contract with local contractors to make the repairs. Retrofits will be subsidized at a sliding scale based on income, with subsidies covering most or all of the cost of retrofits for most families.

The program will provide up to 80 home retrofits, serving low-income and vulnerable households in Flagstaff. This program targets low-income and vulnerable households due to the persistent high energy burdens faced by these groups.

- Low-income is defined using the HUD low-income limits. They are defined as households with incomes less than 80% of the Flagstaff area median income (AMI) in the past year.
- Vulnerable families are defined as those families that face additional risk of housing insecurity and

climate change. Examples include having a family member with a disability or health condition, a history of housing insecurity, or children in the household. This is a broad definition that will be refined as the program is developed.

The program will be available for both owner- and renter-occupied units and will seek to serve all housing types (single-family and multi-family housing).

Financial Impact:

Total cost to implement this program is estimated at $763,936.00.

- The City of Flagstaff will receive $750,000 in funding from the U.S. Department of Housing and Urban Development.
- The City will contribute staff time to manage the program, totaling approximately $13,936.00.

This grant and program is budgeted in FY2023-24 in Sustainability & Environmental Management Fund in account 214-12-170-6368-0-4290.

In the future, the City may wish to further supplement this program in order to reach more residents and/or accelerate the implementation of this program. Any supplemental program funding will be requested via the fiscal year budget process.

Policy Impact:

Implementation of the Flagstaff Home Retrofit Program, primarily funded through this grant, will:

- Directly support Flagstaff residents in making energy-efficient improvements to their home, resulting in improvements to comfort, healthier indoor air quality, and lower utility expenses.
- Enable low-income and vulnerable Flagstaff households to more actively participate in energy efficiency programs and better distribute the benefits of City climate action across the community.
- Reduce greenhouse gas emissions from participating homes, contributing to the City's Carbon Neutrality Goals.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

- Inclusive & engaged community: Promote environmental justice and the fair distribution of environmental benefits.
- Environmental Stewardship: implement sustainable building practices, enhance waste diversion programs, alternative energy programs & multi-modal transportation options.

Carbon Neutrality Plan

- ES-3: Design targeted climate policies and programs to serve disproportionately impacted communities first.
- RS-3: Support fuel switching in existing residential and commercial buildings.
- BE-3: Reduce energy use in existing buildings.

Regional Plan

- E&C.2: Achieve carbon neutrality for the Flagstaff community by 2030.

- Policy E&C.2.1. Encourage the reduction of all energy consumption, especially fossil-fuel-generated energy, in public, commercial, industrial, and residential sectors.

Has There Been Previous Council Decision on This:

There has been a previous council decision on this specific grant. The council approved this grant on 3/21/2023, prior to revisions made by the recently enacted Consolidated Appropriations Act 2023 (P.L. 117-328) (the FY2023 Act).

Attachments: Grant Agreement Comparison
Previous Staff Summary - HUD Grant Agreement
Grant Agreement

Text Comparison

Initial Document:
B-22-CP-AZ-0018 - Grant Agreement (Original).pdf

Changed Document:
B-22-CP-AZ-0018 - Grant Agreement (Revised).pdf

Summary
Differences exist between the documents.

831 word(s) added
696 word(s) deleted
118 word(s) moved
6249 word(s) matched
18 word(s) differ in font

1 page(s) added
1 page(s) deleted
20 page(s) replaced

Insert	Word(s) inserted
~~Delete~~	Word(s) deleted
Move	Word(s) moved
Different	Word(s) different only in style

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FY 2022 COMMUNITY PROJECT FUNDING
GRANT AGREEMENT NO. B-22-CP-AZ-0018

Grantee Name: City of Flagstaff
Grantee Address: 211 West Aspen Avenue Flagstaff, AZ 86001
Grantee's Unique Entity Identifier (UEI): XMMUMPKTLVQ3
Federal Award Identification Number (FAIN) B-22-CP-AZ-0018
Assistance Listing Number and Name 14.251 Economic Development Initiative, Community Project Funding, and Miscellaneous Grants
Period of Performance/Budget Period Start Date Date of grant obligation
Period of Performance/Budget Period End Date August 31, 2030

This Grant Agreement between the Department of Housing and Urban Development (HUD) and City of Flagstaff (the Grantee) is made pursuant to the authority of the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the Explanatory Statement for Division L of that Act, ~~2022,~~ which was printed in the House section of the Congressional Record on March 9, 2022 (Explanatory Statement); ~~This Grant Agreement includes~~ and ~~incorporates~~ the ~~Grantee's assurances and certifications, which are attached as Appendix 9.~~

In reliance upon and in consideration of the mutual representations and obligations under this Grant Agreement, HUD and the Grantee agree as follows:

ARTICLE I. Definitions

The definitions at 2 CFR 200.1 apply to this Grant Agreement, except where this Grant Agreement specifically states otherwise.

~~Grant obligation,~~ for the ~~purpose~~ of ~~this Grant Agreement, refers to~~ the ~~date the designated HUD official signs this Grant Agreement.~~

~~Grantee,~~ for the ~~purpose~~ of ~~this Grant Agreement, may also be referred to~~ as ~~"recipient."~~

ARTICLE II. Total Grant Amount

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of $750,000 available to the Grantee.

ARTICLE III. Award-Specific Requirements

A. Federal Award Description. The Federal funds provided under this Grant Agreement (Grant Funds) ~~must be used for~~ the Grantee's ~~"project" as identified~~ in the ~~table included in the Explanatory Statement and~~ as ~~further~~ described in the ~~project narrative in Appendix 1 to~~ this Grant Agreement. ~~The project narrative in~~ Appendix 1 ~~may be amended in accordance with conditions under 2 CFR 200.308, provided that~~ the ~~Grantee does not change its project in a manner that would conflict with~~ the ~~express language of the Explanatory Statement.~~

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FY 2022 COMMUNITY PROJECT FUNDING
GRANT AGREEMENT NO. B-22-CP-AZ-0018

Grantee Name: City of Flagstaff
Grantee Address: 211 West Aspen Avenue Flagstaff, AZ 86001
Grantee's Unique Entity Identifier (UEI): XMMUMPKTLVQ3
Grantee's Employer Identification Number (EIN) 86-6000244
Federal Award Identification Number (FAIN) B-22-CP-AZ-0018
Assistance Listing Number and Name 14.251 Economic Development Initiative, Community Project Funding, and Miscellaneous Grants
Period of Performance/Budget Period Start Date Date of grant obligation
Period of Performance/Budget Period End Date August 31, 2030

This Grant Agreement between the Department of Housing and Urban Development (HUD) and City of Flagstaff (the Grantee) is made pursuant to the authority of the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the Explanatory Statement for Division L of that Act, which was printed in the House section of the Congressional Record on March 9, 2022 (Explanatory Statement); and superseding provisions of the Consolidated Appropriations Act, 2023 (Public Law 117-328).

In reliance upon and in consideration of the mutual representations and obligations under this Grant Agreement, HUD and the Grantee agree as follows:

ARTICLE I. Definitions

The definitions at 2 CFR 200.1 apply to this Grant Agreement, except where this Grant Agreement specifically states otherwise.

Budget period is defined in 2 CFR 200.1 and begins and ends on the dates specified above for the Period of Performance/Budget Period Start Date and Period of Performance/Budget Period End Date.

Period of Performance is defined in 2 CFR 200.1 and begins and ends on the dates specified above for the Period of Performance/Budget Period Start Date and Period of Performance/Budget Period End Date.

ARTICLE II. Total Grant Amount

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of $750,000 available to the Grantee.

ARTICLE III. Award-Specific Requirements

A. Federal Award Description. The Grantee must use the Federal funds provided under this Grant Agreement (Grant Funds) to carry out the Grantee's "Project." Unless changed in accordance with Article III, section C of this Grant Agreement, the Grantee's Project shall be as described in the Project Narrative that is approved by HUD as of the date that HUD signs this Grant Agreement. For reference, HUD will attach this approved Project Narrative as Appendix 1 to the Grant Agreement on the date that HUD signs this Grant Agreement.

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B. Approved Budget. The ~~Grantee's approved budget~~ in ~~Appendix 2 to~~ this Grant ~~Agreement is~~ the ~~most recent~~ line-item budget ~~submitted by the Grantee and~~ approved by HUD ~~for this project. The Grantee may change~~ the ~~amounts budgeted for each activity only~~ as ~~provided by~~ 2 ~~CFR 200.308 and~~ this Grant Agreement.

C. ~~Changes~~ to Project ~~Narrative~~ or ~~Budget.~~ To request HUD's approval for a change in the ~~project narrative~~ or ~~budget,~~ the Grantee must submit a formal letter to the Director of HUD's Office of Economic Development - Congressional Grants Division through the assigned Grant Officer. The ~~letter,~~ submitted by email to the assigned Grant ~~Officer,~~ must ~~include both~~ justification for the ~~change and~~ a revised line-item ~~budget~~ that includes the requested change. The Grantee is prohibited from ~~changing its~~ budget ~~in a manner~~ that would conflict with the ~~express language of the Explanatory Statement or the cost limitations provided~~ in Article III, ~~paragraphs C and~~ D of this Grant Agreement. The assigned Grant Officer for this grant is provided in the Award Letter for this grant and found on HUD's website.

The HUD Office of Economic Development – Congressional Grants Division will notify the Grantee in writing, by email, whether HUD approves or disapproves the change ~~and revised budget. If approved,~~ the Grantee must update its ~~budget~~ information in Disaster Recovery Grant Reporting (DRGR) ~~before~~ the ~~Grantee expends~~ Grant Funds ~~in accordance with an approved change.~~

~~D. Unless explicitly stated in~~ the Explanatory ~~Statement~~ and ~~documented in~~ the ~~approved budget in Appendix 2, no more than 20 percent~~ of the ~~total grant amount may be used for planning and management development costs, as described under 24 CFR 570.205, or administrative costs, as described under 24 CFR 570.206. Program income and eligible activities identified in the description~~ of the ~~Grantee's "project" in~~ the ~~Explanatory Statement~~ are not subject to ~~this spending limit.~~

~~This Grant Agreement is not otherwise subject to~~ the Community Development Block ~~Grant~~ regulations at 24 CFR part 570 or Title I of the Housing and Community Development Act of 1974.

E. ~~The Grantee~~ may ~~not use any grant funds~~ to ~~reimburse~~ costs ~~incurred before~~ the ~~date HUD signed this Grant Agreement.~~

~~F.~~ As authorized under 2 CFR 200.307(e)(2), program income ~~must~~ be ~~used for~~ the ~~purposes and under~~ the ~~conditions of~~ this Grant Agreement. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant.

~~G.~~ The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee's indirect cost rate information is as provided in Appendix 3 to this Grant Agreement. Unless the Grantee is an Institution of Higher Education,

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B. Approved Budget. The Grantee must use the Grant Funds as provided by the Approved Budget. Unless changed in accordance with Article III, section C of this Grant Agreement, the Approved Budget shall be the line-item budget that is approved by HUD as of the date that HUD signs this Grant Agreement. For reference, HUD will attach this approved line-item budget as Appendix 2 to this Grant Agreement on the date that HUD signs this Grant Agreement.

C. Project and Budget Changes. All changes to the Grantee's Project or Approved Budget must be made in accordance with 2 CFR 200.308 and this Grant Agreement. To request HUD's approval for a change in the Project or Approved Budget, the Grantee must submit a formal letter to the Director of HUD's Office of Economic Development - Congressional Grants Division through the assigned Grant Officer. The letter must be submitted by email to the assigned Grant Officer and must provide justification for the change. The email submitting the letter must also include a revised project narrative or revised line-item budget, as applicable, that includes the requested change. The Grantee is prohibited from making project or budget changes that would conflict with the Applicable Appropriations Act Conditions described in Article III, section D of this Grant Agreement. The assigned Grant Officer for this grant is provided in the Award Letter for this grant and found on HUD's website. The HUD Office of Economic Development – Congressional Grants Division will notify the Grantee in writing, by email, whether HUD approves or disapproves the change. Before the Grantee expends Grant Funds in accordance with any change approved by HUD or otherwise allowed by 2 CFR 200.308, the Grantee must update its grant information in Disaster Recovery Grant Reporting (DRGR) to reflect that change.

D. Applicable Appropriations Act Conditions. The conditions that apply to the Grant Funds as provided by the Consolidated Appropriations Act, 2022, the Explanatory Statement, and the Consolidated Appropriations Act, 2023 are hereby incorporated and made part of this Grant Agreement. In the event of a conflict between those conditions, the conditions provided by the later Act will govern. The Grant Funds are not subject to the Community Development Block Grants regulations at 24 CFR part 570 or Title I of the Housing and Community Development Act of 1974.

E. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant. As authorized under 2 CFR 200.307(e)(2), program income may be treated as an addition to the Federal award, provided that the Grantee uses that income for allowable costs under this Grant Agreement. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant. Any program income that cannot be expended on allowable costs under this Grant Agreement must be paid to HUD before closeout of the grant, unless otherwise specified by an applicable Federal statute.

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the Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate during the Period of Performance, so that HUD can amend the Grant Agreement to reflect the change if necessary. Consistent with 2 CFR ~~Part~~ 200,

Appendix III (C.7), if the Grantee is an Institution of Higher Education and has a negotiated rate in effect on the date this Grant Agreement is signed by HUD, the Grantee may use only that rate for its indirect costs during the Period of Performance.

~~H.~~ The Grantee must comply with any specific award conditions that HUD may attach to this Grant Agreement as provided by 2 CFR 200.208. If applicable, these conditions will be listed or added as Appendix 5 to this Grant Agreement.

~~I.~~ The Grantee is responsible for managing the ~~project~~ and ensuring the proper use of the Grant Funds. The Grantee is also responsible for ensuring the completion of the ~~project,~~ the grant closeout, and compliance with all applicable federal requirements.

The Grantee may subaward all or a portion of its funds to one or more subrecipients, as identified in the Project Narrative (Appendix 1) or as may be approved by HUD in accordance with 2 CFR 200.308. ~~Subawards~~ are subject to the requirements ~~that apply to pass-through entities~~ under 2 CFR ~~Part~~ 200, including 2 CFR 200.332, and other requirements provided by this Grant Agreement. The Grantee is responsible for ensuring each subrecipient complies with all requirements under this Grant Agreement, including the general federal requirements in Article IV.

ARTICLE IV. General Federal Requirements

A. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, the Grantee is the Responsible Entity (as defined in 24 CFR part 58) and agrees to assume all of the responsibilities for environmental review and decision-making and action, as specified and required in regulations issued by the Secretary pursuant to the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR ~~Part~~ 58.

B. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe or Alaskan Native Village, within which the ~~project~~ is located and which exercises land use responsibility, to act as Responsible Entity and assume all of the responsibilities for environmental review and decision-making and action as specified in paragraph A above, and the Grantee shall carry out all of the responsibilities of a grantee under 24 CFR ~~Part~~ 58.

C. After Grantee's receipt of the Letter of Invitation for this grant, neither the Grantee nor any of its contractors, subrecipients and other funding and development partners may commit or expend ~~grant funds~~ or local funds ~~for~~ project activities (other than for planning, management, development and administration ~~activities)~~

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F. The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee's indirect cost rate information is as provided in Appendix 3 to this Grant Agreement. Unless the Grantee is an Institution of Higher Education, the Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate during the Period of Performance, so that HUD can amend the Grant Agreement to reflect the change if necessary. Consistent with 2 CFR part 200, Appendix III (C.7), if the Grantee is an Institution of Higher Education and has a negotiated rate in effect on the date this Grant Agreement is signed by HUD, the Grantee may use only that rate for its indirect costs during the Period of Performance.

G. The Grantee must comply with any specific award conditions that HUD may attach to this Grant Agreement as provided by 2 CFR 200.208. If applicable, these conditions will be listed or added as Appendix 5 to this Grant Agreement.

H. The Grantee is responsible for managing the Project and ensuring the proper use of the Grant Funds. The Grantee is also responsible for ensuring the completion of the Project, the grant closeout, and compliance with all applicable federal requirements. The Grantee may subaward all or a portion of its funds to one or more subrecipients, as identified in the Project Narrative (Appendix 1) or as may be approved by HUD in accordance with 2 CFR 200.308. All subawards made with funding under this Grant Agreement are subject to the subaward requirements under 2 CFR art 200, including 2 CFR 200.332, and other requirements provided by this Grant Agreement. The Grantee is responsible for ensuring each subrecipient complies with all requirements under this Grant Agreement, including the general federal requirements in Article IV. A subaward may be made to a for-profit entity only if HUD expressly approves that subaward, and the for-profit entity is made subject to the same Federal requirements that apply to all other subrecipients, including the requirements 2 CFR part 200 provides for a "non-Federal entity" that receives a subaward.

ARTICLE IV. General Federal Requirements

A. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, the Grantee is the Responsible Entity (as defined in 24 CFR part 58) and agrees to assume all of the responsibilities for environmental review and decision-making and action, as specified and required in regulations issued by the Secretary pursuant to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR art 58.

B. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe or Alaskan Native Village, within which the Project is located and which exercises land use responsibility, to act as Responsible Entity and assume all of the responsibilities for environmental review and decision-making and action as specified in paragraph A above, and the Grantee shall carry out all of the responsibilities of a grantee under 24 CFR art 58.

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until one of the following occurs: (i) the Responsible Entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and given a release of funds; (ii) the Responsible Entity has determined that the activities are exempt under 24 CFR 58.34 or are categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or (iii) HUD has performed an environmental review under 24 CFR part 50 and has notified Grantee in writing of environmental approval of the activities.

D. Following completion of the environmental review process, the Grantee (recipient) shall exercise oversight, monitoring, and enforcement as necessary to assure that decisions and mitigation measures adopted through the environmental review process are carried out during project development and implementation.

E. The Grantee must comply with the generally applicable HUD and CPD requirements in 24 CFR ~~Part~~ 5, subpart A, including all applicable fair housing, and civil rights requirements. If the Grantee is a Tribe or a Tribally Designated Housing Entity (TDHE) as established under 24 CFR 1000.206, the Grantee must comply with the nondiscrimination requirements in 24 CFR 1000.12 in lieu of the nondiscrimination requirements in 24 CFR 5.105(a). The Grantee must report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of the Grantee's ~~project,~~ consistent with the instructions and forms provided by HUD in order to carry out its responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987 (e.g. HUD-27061).

F. The Grantee must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR part 200, as may be amended from time to time. If 2 CFR part 200 is amended to replace or renumber sections of part 200 that are cited specifically in this Grant Agreement, the part 200 requirements as renumbered or replaced by the amendments will govern the obligations of HUD and the Grantee after those amendment become effective.

G. The Grantee must comply with the Award Term in Appendix A to 2 CFR ~~Part~~ 25 ("System for Award Management and Universal Identifier Requirements") and the Award Term in Appendix A to 2 CFR ~~Part~~ 170 ("Reporting Subawards and Executive Compensation"), which are hereby incorporated into and made part of this Grant Agreement.

H. If the Total Grant Amount, as provided in Article II of this Grant Agreement, is greater than $500,000, the Grantee must comply with the Award Term and Condition for Grantee Integrity and Performance Matters in Appendix 4 to this Grant Agreement.

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C. After Grantee's receipt of the Letter of Invitation for this grant, neither the Grantee nor any of its contractors, subrecipients and other funding and development partners may undertake, or commit or expend Grant Funds or local funds for, project activities (other than for planning, management, development and administration activities), unless a contract requiring those activities was already executed prior to the Letter of Invitation, until one of the following occurs: (i) the Responsible Entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and given a release of funds; (ii) the Responsible Entity has determined and documented in its environmental review record that the activities are exempt under 24 CFR 58.34 or are categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or (iii) HUD has performed an environmental review under 24 CFR part 50 and has notified Grantee in writing of environmental approval of the activities.

D. Following completion of the environmental review process, the Grantee (recipient) shall exercise oversight, monitoring, and enforcement as necessary to assure that decisions and mitigation measures adopted through the environmental review process are carried out during project development and implementation.

E. The Grantee must comply with the generally applicable HUD and CPD requirements in 24 CFR part 5, subpart A, including all applicable fair housing, and civil rights requirements. If the Grantee is a Tribe or a Tribally Designated Housing Entity (TDHE) as established under 24 CFR 1000.206, the Grantee must comply with the nondiscrimination requirements in 24 CFR 1000.12 in lieu of the nondiscrimination requirements in 24 CFR 5.105(a). The Grantee must report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of the Grantee's Project, consistent with the instructions and forms provided by HUD in order to carry out its responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987 (e.g. HUD-27061).

F. The Grantee must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR part 200, as may be amended from time to time. If 2 CFR part 200 is amended to replace or renumber sections of part 200 that are cited specifically in this Grant Agreement, the part 200 requirements as renumbered or replaced by the amendments will govern the obligations of HUD and the Grantee after those amendment become effective.

G. The Grantee must comply with the Award Term in Appendix A to 2 CFR part 25 ("System for Award Management and Universal Identifier Requirements") and the Award Term in Appendix A to 2 CFR part 170 ("Reporting Subawards and Executive Compensation"), which are hereby incorporated into and made part of this Grant Agreement.

H. If the Total Grant Amount, as provided in Article II of this Grant Agreement, is greater than $500,000, the Grantee must comply with the Award Term and Condition for Grantee Integrity and Performance Matters in Appendix 4 to this Grant Agreement.

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I. Unless the Grantee is exempt from the Byrd Amendment as explained below, the Grantee must comply with the provisions of Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment) and 24 CFR ~~Part~~ 87, which prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, loan, or cooperative agreement. The Grantee must include in its award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements), the requirements for the certification required by Appendix A to 24 CFR ~~Part~~ 87 and for disclosure using Standard Form- LLL (SF-LLL), "Disclosure of Lobbying Activities." In addition, the Grantee must obtain the executed certification required by Appendix A and an SF-LLL from all covered persons. "Person" is as defined by 24 CFR ~~Part~~ 87. ~~Consistent with these requirements, the Grantee must sign the certification that is included in Appendix 8 and return it to HUD with this signed agreement.~~

Federally recognized Indian tribes and TDHEs established by Federally recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment. State-recognized Indian tribes and TDHEs established only under state law must comply with this requirement.

J. The Grantee must comply with drug-free workplace requirements in Subpart B of 2 CFR ~~Part~~ 2429, which adopts the governmentwide implementation (2 CFR ~~Part~~ 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988, Pub. L. 100-690, Title V, Subtitle D (41 U.S.C. 701-707).

K. The Grantee must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) as implemented by regulations at 49 CFR ~~Part~~ 24. The URA applies to acquisitions of real property and relocation occurring as a direct result of the acquisition, rehabilitation, or demolition of real property for Federal or Federally funded programs or projects. Real property acquisition that receives Federal financial assistance for a program or project, as defined in 49 CFR 24.2, must comply with the acquisition requirements contained in 49 CFR part 24, subpart B. Unless otherwise specified in law, the relocation requirements of the URA and its implementing regulations at 49 CFR part 24, cover any displaced person who moves from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD financial assistance

L. If ~~grant funds~~ are used for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead- based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead- based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

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M. The Grantee must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u, and HUD's regulations at 24 CFR part 75, as applicable, including the reporting requirements in 24 CFR 75.25. Grants made to Tribes and TDHEs are subject to Indian Preference requirements in Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). As stated in 24 CFR 75.3(c), grants to Tribes and TDHEs are subject to Indian Preference requirements in lieu of Section 3. Grantees that are not exempt from Section 3 must submit annual reports of Section 3

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M. The Grantee must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u, and HUD's regulations at 24 CFR ~~Part~~ 75, as applicable, including the reporting requirements in 24 CFR 75.25. Grants made to Tribes and TDHEs are subject to Indian Preference requirements in Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). As stated in 24 CFR 75.3(c), grants to Tribes and TDHEs are subject to Indian Preference requirements in lieu of Section 3. Grantees that are not exempt from Section 3 must submit annual reports of Section 3 accomplishment Performance Measures in DRGR in January of the calendar year. This report reflects Section 3 accomplishments for the previous calendar year.

N. The Grantee must not use any Grant Funds to support any Federal, state, or local project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use. Public use includes use of funds for mass transit, railroad, airport, seaport, or highway projects, and utility projects which benefit or serve the general public (including energy-related, communication-related, water-related, and waste water-related infrastructure), other structures designated for use by the general public or with other common-carrier or ~~public utility~~ functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields, as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107-118). Public use does not include economic development that primarily benefits private entities.

O. The Grantee must not use any Grant Funds to maintain or establish a computer network that does not block the viewing, downloading, and exchanging of pornography. This requirement does not limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

P. The Grantee must ~~comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, if applicable to the Grantee's project. Pursuant to HUD's Notice, "General Applicability Waiver of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (87 FR 26219), any funds obligated by HUD and the Grantee on or after November 14, 2022, are subject to BABA requirements, unless excepted by a waiver.~~

~~For Tribal recipients/Grantees, including Tribes and TDHEs, HUD's Notice, "General Applicability Waiver of Build America, Buy America Provisions as Applied to Tribal Recipients of HUD Federal Financial Assistance" (87 FR 26221), establishes that any funds obligated by HUD and the Grantee on or after May 14, 2023, are subject to BABA requirements, unless excepted by a waiver.~~

~~Additional information on BABA will be available at https://www.hud.gov/program_offices/general_counsel/BABA~~

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accomplishment Performance Measures in DRGR in January of the calendar year. This report reflects Section 3 accomplishments for the previous calendar year.

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O. The Grantee must not use any Grant Funds to maintain or establish a computer network that does not block the viewing, downloading, and exchanging of pornography. This requirement does not limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

P. The Grantee must administer its Grant Funds in accordance with the Conflict of Interest requirements set forth in Appendix 6 of this Grant Agreement.

Q. The Grantee must comply with the governmentwide debarment and suspension requirements in 2 CFR part 180 as incorporated and supplemented by HUD's regulations at 2 CFR part 2424.

R. The Grantee must comply with the award term and condition regarding trafficking in persons in Appendix 7 of this Grant Agreement.

S. The assurances and certifications the Grantee has made and submitted to HUD are incorporated by this reference and made part of this Grant Agreement.

ARTICLE V. Drawdown Requirements

A. The Grantee may not draw down Grant Funds until HUD has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying, if applicable.

B. The Grantee must use HUD's Disaster Recovery Grant Reporting (DRGR) system to draw down Grant Funds and report to HUD on activities.

C. The Grantee must enter activity and budget information in DRGR that is consistent with the Project and Approved Budget as described in Article III, sections A and B of this Grant Agreement and complies with HUD's instructions for entering information in DRGR found in

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~~Q.~~ ~~The Grantee must~~ administer its Grant Funds in accordance with the Conflict of Interest requirements set forth in Appendix 6 of this Grant Agreement.

~~R.~~ The Grantee must comply with the governmentwide debarment and suspension requirements in 2 CFR part 180 as incorporated and supplemented by HUD's regulations at 2 CFR ~~Part~~ 2424.

~~S.~~ The Grantee must comply with the award term and condition regarding trafficking in persons in Appendix 7 of this Grant Agreement.

ARTICLE V. Drawdown Requirements

A. The Grantee may not draw down ~~grant funds~~ until HUD has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying, if applicable.

B. The Grantee must use HUD's Disaster Recovery Grant Reporting (DRGR) system to draw down ~~grant funds~~ and report to HUD on activities.

C. The Grantee must enter activity and budget information in DRGR that is consistent with the ~~activities~~ and ~~budget HUD approved under~~ this Grant Agreement and complies with HUD's instructions for entering information in DRGR found in the document titled "Grant Award Instructions" that accompanies the Grant Agreement.

~~D.~~ The Grantee must only enter activities in DRGR that are described in the Approved ~~Budget (Appendix 2).~~

~~E.~~ The Grantee must expend all Grant ~~funds~~ in accordance with the activity and budget information in DRGR.

~~F.~~ Each drawdown of ~~grant funds~~ constitutes a representation by the Grantee that the funds will be used in accordance with this Grant Agreement.

~~G.~~ The Grantee must use DRGR to track the use of program income and must report the receipt and use of program income in the reports the Grantee submits to HUD under Article ~~IV~~ of this Grant Agreement. The Grantee must expend program income before drawing down ~~grant funds~~ through DRGR.

~~H.~~ Notwithstanding any other provision of this grant agreement, HUD will not be responsible for payment of any ~~grant funds~~ after the date Treasury closes the account in accordance with 31 U.S.C. § 1552. Because Treasury may close the account up to one week before the September 30 date specified by 31 U.S.C. § 1552, the grantee is advised to make its final request for payment under the grant no later than September 15, 2030.

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the document titled "Grant Award Instructions" that accompanies the Grant Agreement. The Grantee must only enter activities in DRGR that are described in the Approved Budget.

D. The Grantee must expend all Grant Funds in accordance with the activity and budget information in DRGR.

E. Each drawdown of Grant Funds constitutes a representation by the Grantee that the funds will be used in accordance with this Grant Agreement.

F. The Grantee must use DRGR to track the use of program income and must report the receipt and use of program income in the reports the Grantee submits to HUD under Article VI of this Grant Agreement. The Grantee must expend program income before drawing down Grant Funds through DRGR.

G. Notwithstanding any other provision of this grant agreement, HUD will not be responsible for payment of any Grant Funds after the date Treasury closes the account in accordance with 31 U.S.C. § 1552. Because Treasury may close the account up to one week before the September 30 date specified by 31 U.S.C. § 1552, the grantee is advised to make its final request for payment under the grant no later than September 15, 2030.

ARTICLE VI. Program-Specific Reporting Requirements

In addition to the general reporting requirements that apply under other provisions of this Agreement, the following program-specific reporting requirements apply to the Grantee:

A. The Grantee must submit a performance report in DRGR on a semi-annual basis and must include a completed Federal financial report as an attachment to each performance report in DRGR. Performance reports shall consist of a narrative of work accomplished during the reporting period. During the Period of Performance, the Grantee must submit these reports in DRGR no later than 30 calendar days after the end of the 6-month reporting period. The first of these reporting periods begins on the first of January or June (whichever occurs first) after the date this Grant Agreement is signed by HUD.

B. The performance report must contain the information required for reporting program performance under 2 CFR 200.329(c)(2) and (d), including a comparison of actual accomplishments to the objectives of the Project as described in Article III, section A of this Grant Agreement; the reasons why established goals were not met, if appropriate; and additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

C. Financial reports must be submitted using DRGR or such future collections HUD may require and as approved by OMB and listed on the Grants.gov website (https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html).

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ARTICLE VI. Program-Specific Reporting ~~Requirements.~~

In addition to the general reporting requirements that apply under other provisions of this Agreement, the following program-specific reporting requirements apply to the Grantee:

A. The Grantee must submit a performance report in DRGR on a semi-annual basis and must include a completed Federal financial report as an attachment to each performance report in DRGR. Performance reports shall consist of a narrative of work accomplished during the reporting period. During the Period of Performance, the Grantee must submit these reports in DRGR no later than 30 calendar days after the end of the 6-month reporting period. The first of these reporting periods begins on the January or June after the date this Grant Agreement is signed by HUD.

B. The performance report must contain the information required for reporting program performance under 2 CFR 200.329(c)(2) and (d), including a comparison of actual accomplishments to the objectives ~~indicated~~ in the ~~Grantee's project narrative, the~~ reasons why established goals were not met, if ~~appropriate,~~ and additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

C. ~~The performance reports must contain the information required for reporting program performance under 2 CFR 200.329(c)(2) and (d), including a comparison of actual accomplishments to the objectives indicated in the Grantee's Project Narrative (Appendix 1), the reasons for slippage if established objectives were not overruns.~~

~~D.~~ Financial reports must be submitted using DRGR or such future collections HUD may require and as approved by OMB and listed on the Grants.gov website https://www.grants.gov/web/grants/forms/post-award-reporting-forms.~~html~~

~~E.~~ The performance and financial reports will undergo review and approval by HUD. If a report submission is insufficient, HUD will reject the report in DRGR and identify the corrections the Grantee must make.

~~F.~~ No drawdown of funds will be allowed through DRGR while the Grantee has an overdue performance or financial report.

~~G.~~ The Grantee must report and account for all property acquired or improved with Grant Funds as provided by 2 CFR part 200 using the applicable common forms approved by OMB and provided on the Grants.gov website https://www.grants.gov/web/grants/forms/post-award-reporting-forms.~~html~~

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This reporting obligation includes submitting status reports on real property at least annually as provided by 2 CFR 200.330, accounting for real and personal property acquired or improved with Grant Funds as part of Project Closeout, and promptly submitting requests for disposition instructions as provided by 2 CFR 200.311(c), 200.313(e), and 200.314(a).

ARTICLE VII. Project ~~Closeout.~~

A. The grant will be closed out in accordance with 2 CFR part 200, as may be amended from time to time, except as otherwise specified in this Grant Agreement.

B. The Grantee must submit to HUD a written request to closeout the grant no later than 30 calendar days after the Grantee has drawn down all Grant ~~funds~~ and completed the ~~activities~~ described in ~~the~~ ~~Project~~ ~~Narrative~~ ~~(Appendix~~ ~~1).~~ HUD will then send the Closeout Agreement and Closeout Certification to the Grantee.

C. At HUD's option, the Grantee may delay initiation of project closeout until the resolution of any findings as a result of the review of semi-annual activity reports in DRGR. If HUD exercises this option, the Grantee must promptly resolve the findings.

D. The Grantee recognizes that the closeout process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any HUD review, including reasonable requests for on-site inspection of property acquired or improved with Grant Funds. E. No later than 120 calendar ~~days~~ ~~after~~ ~~the~~ ~~Period~~ ~~of~~ ~~Performance,~~ ~~Grantee~~ ~~shall~~ ~~provide~~ ~~to~~ ~~HUD~~ ~~the~~ ~~following~~ ~~documentation:~~

1. A Certification of Project Completion.

2. A Grant Closeout Agreement.

3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of 2 CFR part 200, subpart E); a certification of the costs; and the amounts and sources of other project funds.

4. A final performance report providing a comparison of actual accomplishments with ~~each~~ ~~of~~ the ~~project~~ ~~commitments~~ ~~and~~ objectives in the ~~approved~~ ~~application,~~ ~~the~~ reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.

5. A final property report, if specifically requested by HUD at the time of closeout.

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D. The performance and financial reports will undergo review and approval by HUD. If a report submission is insufficient, HUD will reject the report in DRGR and identify the corrections the Grantee must make.

E. No drawdown of funds will be allowed through DRGR while the Grantee has an overdue performance or financial report.

F. The Grantee must report and account for all property acquired or improved with Grant Funds as provided by 2 CFR part 200 using the applicable common forms approved by OMB and provided on the Grants.gov website (https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html). This reporting obligation includes submitting status reports on real property at least annually as provided by 2 CFR 200.330, accounting for real and personal property acquired or improved with Grant Funds as part of Project Closeout, and promptly submitting requests for disposition instructions as provided by 2 CFR 200.311(c), 200.313(e), and 200.314(a).

ARTICLE VII. Project Closeout

A. The grant will be closed out in accordance with 2 CFR part 200, as may be amended from time to time, except as otherwise specified in this Grant Agreement.

B. The Grantee must submit to HUD a written request to closeout the grant no later than 30 calendar days after the Grantee has drawn down all Grant Funds and completed the Project as described in Article III, section A of this Grant Agreement. HUD will then send the Closeout Agreement and Closeout Certification to the Grantee.

C. At HUD's option, the Grantee may delay initiation of project closeout until the resolution of any findings as a result of the review of semi-annual activity reports in DRGR. If HUD exercises this option, the Grantee must promptly resolve the findings.

D. The Grantee recognizes that the closeout process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any HUD review, including reasonable requests for on-site inspection of property acquired or improved with Grant Funds.E. No

1. A Certification of Project Completion.

2. A Grant Closeout Agreement.

3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of 2 CFR part 200, subpart E); a certification of the costs; and the amounts and sources of other project funds.

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ARTICLE VIII. ~~Default.~~

A default under this Grant Agreement shall consist of any use of ~~grant~~ ~~funds~~ for a purpose other than as authorized by this Grant Agreement, any noncompliance with statutory, regulatory, or other requirements applicable to the Grant Funds, any other material breach of this Grant Agreement, or any material misrepresentation in the Grantee's submissions to HUD in anticipation of this award. If the Grantee fails to comply with the terms and conditions of the Grant Agreement, HUD may adjust specific conditions of this Grant Agreement as described in 2 CFR part 200, as may be amended from time to time. If HUD determines that noncompliance cannot be remedied by imposing additional conditions, HUD may take one or more of the remedies for noncompliance described in 2 CFR part 200, as may be amended from time to time. HUD may also terminate all or a part of this award as provided by 2 CFR 200.340 and other applicable provisions of 2 CFR part 200, as may be amended from time to time. Nothing in this Grant Agreement shall be construed as creating or justifying any claim against the ~~federal~~ government or the Grantee by any third party.

ARTICLE IX. HUD Contact ~~Information.~~

Except where this Grant Agreement specifically states otherwise, all requests, submissions, and reports the Grantee is required to make to HUD under this Grant Agreement must be made in writing via email CPFGrants@hud.~~gov~~

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4. A final performance report providing a comparison of actual accomplishments with the objectives of the Project as described in Article III, section A of this Grant Agreement, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.

5. A final property report, if specifically requested by HUD at the time of closeout.

ARTICLE VIII. Default

A default under this Grant Agreement shall consist of any use of Grant Funds for a purpose other than as authorized by this Grant Agreement, any noncompliance with statutory, regulatory, or other requirements applicable to the Grant Funds, any other material breach of this Grant Agreement, or any material misrepresentation in the Grantee's submissions to HUD in anticipation of this award. If the Grantee fails to comply with the terms and conditions of the Grant Agreement, HUD may adjust specific conditions of this Grant Agreement as described in 2 CFR part 200, as may be amended from time to time. If HUD determines that noncompliance cannot be remedied by imposing additional conditions, HUD may take one or more of the remedies for noncompliance described in 2 CFR part 200, as may be amended from time to time. HUD may also terminate all or a part of this award as provided by 2 CFR 200.340 and other applicable provisions of 2 CFR part 200, as may be amended from time to time. Nothing in this Grant Agreement shall be construed as creating or justifying any claim against the Federal government or the Grantee by any third party.

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This agreement is hereby executed on behalf of the ~~parties~~ as follows:

GRANTEE

_____

(Name of Organization)

BY: _____
(Signature of Authorized Official)

_____
(Typed Name and Title of Authorized Official)

_____
(Date)

HUD

BY: _____
Robin J. Keegan,
Deputy Assistant Secretary for Economic Development

_____
(Date)

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ARTICLE IX. HUD Contact Information

Except where this Grant Agreement specifically states otherwise, all requests, submissions, and reports the Grantee is required to make to HUD under this Grant Agreement must be made in writing via email to CPFGrants@hud.gov.

This agreement is hereby executed on behalf of the Grantee and HUD as follows:

GRANTEE

_____

(Name of Organization)

BY: _____
(Signature of Authorized Official)

_____
(Typed Name and Title of Authorized Official)

_____
(Date)

HUD

BY: _____
Robin J. Keegan,
Deputy Assistant Secretary for Economic Development

_____
(Date)

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APPENDIX 1 – Project Narrative

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APPENDIX 1 – Project Narrative

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APPENDIX 2 – Approved Budget

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APPENDIX 2 – Approved Budget

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APPENDIX 3 – Grantee's Indirect Cost Rate Information

~~OPTION 1:~~ The Grantee will not use an indirect cost rate to charge its indirect costs to the grant. ~~[This option must be checked if the Grantee has not provided its indirect cost rate information to HUD as specified in the Community Project Funding Grant Guide.]~~

~~OPTION 2:~~ The Grantee ~~is authorized to~~ use the indirect cost rate(s) identified in the table below to charge its indirect costs to the ~~grant, provided that each rate identified meets the applicable requirements under 2 CFR part 200 (including appendices).~~

Agency/Dept./Major Function	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____

[~~This schedule~~ must include each indirect cost rate that will be used to calculate the Grantee's indirect costs under the grant. The ~~schedule~~ must also specify the type of ~~dire ct~~ cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR 200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR 200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.]

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APPENDIX 3 – Grantee's Indirect Cost Rate Information

Subject to the applicable requirements in 2 CFR part 200 (including its appendices), the Grantee will use an indirect cost rate as represented by the Grantee below:

? The Grantee will not use an indirect cost rate to charge its indirect costs to the grant.

? The Grantee will use the indirect cost rate(s) identified in the table below to charge its indirect costs to the grant.

Agency/Dept./Major Function	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____

[PLEASE NOTE: The grantee must check one of the two boxes above. If the second box is checked, the corresponding table must be filled out as described below.

The table must include each indirect cost rate that will be used to calculate the Grantee's indirect costs under the grant. The table must also specify the type of direct cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR 200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR 200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.]

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APPENDIX 4 –
Award Term and Condition for Grantee Integrity and Performance Matters

Reporting of Matters Related to Grantee Integrity and Performance

1. General Reporting Requirement
If the total value of the Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then during that period of time the Grantee must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which Grantee Must Report
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and the Grantee's payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

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APPENDIX 4 –
Award Term and Condition for Grantee Integrity and Performance Matters

Reporting of Matters Related to Grantee Integrity and Performance

1. General Reporting Requirement
If the total value of the Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then during that period of time the Grantee must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which Grantee Must Report
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and the Grantee's payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

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(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the Grantee's part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. The Grantee does not need to submit the information a second time under assistance awards that the Grantee received if the Grantee already provided the information through SAM because the Grantee was required to do so under Federal procurement contracts that the Grantee was awarded.

4. Reporting Frequency
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that the Grantee has not reported previously or affirm that there is no new information to report. If the Grantee has Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000, the Grantee must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions
For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a cost share or match requirement; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

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(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the Grantee's part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. The Grantee does not need to submit the information a second time under assistance awards that the Grantee received if the Grantee already provided the information through SAM because the Grantee was required to do so under Federal procurement contracts that the Grantee was awarded.

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APPENDIX 5 – Specific Award Conditions

~~[NONE]~~

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APPENDIX 5 – Specific Award Conditions

NONE.

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APPENDIX 6 – Conflict of Interest Requirements

1. *Conflicts Subject to Procurement Regulations.* When procuring property or services, the grantee and its subrecipients shall comply with the applicable conflict-of-interest rules in 2 CFR 200.317 and 2 CFR 200.318(c). In all cases not governed by 2 CFR 200.317 and 2 CFR 200.318(c), the Grantee and its subrecipients must follow the requirements contained in paragraphs 2-5 below.

2. *General prohibition*. No person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee or subrecipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have a financial interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), sibling (including a stepsibling), grandparent, grandchild, and in-laws of a covered person.

3. *Exceptions*. HUD may grant an exception to the general prohibition in paragraph (ii) upon the Grantee's written request and satisfaction of the threshold requirements in paragraph (iv), if HUD determines the exception will further the Federal purpose of the award and the effective and efficient administration of the Grantee's project, taking into account the cumulative effects of the factors in paragraph (v).

4. *Threshold requirements for exceptions*. HUD will consider an exception only after the Grantee has provided the following documentation:

> *a.* A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how that disclosure was made; and
>
> *b.* An opinion of the Grantee's attorney that the interest for which the exception is sought would not violate state or local law.

5. *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the Grantee has satisfactorily met the threshold requirements in paragraph (iii), HUD will consider the cumulative effect of the following factors, where applicable:

> *a.* Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
>
> *b.* Whether an opportunity was provided for open competitive bidding or negotiation;

c. Whether the person affected is a member of a group or class of low- or ~~moderate-income~~ persons intended to be the beneficiaries of the assisted activity, and the exception

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APPENDIX 6 – Conflict of Interest Requirements

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> *b.* An opinion of the Grantee's attorney that the interest for which the exception is sought would not violate state or local law.

5. *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the Grantee has satisfactorily met the threshold requirements in paragraph (iii), HUD will consider the cumulative effect of the following factors, where applicable:

> *a.* Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
>
> *b.* Whether an opportunity was provided for open competitive bidding or negotiation;
>
> *c.* Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception

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will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process regarding the assisted activity in question;

e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (ii);

f. Whether undue hardship will result either to the Grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

g. Any other relevant considerations.

6. *Disclosure of potential conflicts of interest.* The Grantee must disclose in writing to HUD any potential conflict of interest.

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will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process regarding the assisted activity in question;

e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (ii);

f. Whether undue hardship will result either to the Grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

g. Any other relevant considerations.

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APPENDIX 7 – Award Term and Condition Regarding Trafficking in Persons

The following award term and condition, which is required by 2 CFR part 175, applies as written:

a. Provisions applicable to a grantee that is a private entity.

1.You as the grantee, your employees, subrecipients under this award, and subrecipients' employees may not—

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2.We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity:

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by HUD at 2 CFR 2424.

b. Provision applicable to a grantee other than a private entity.
We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:

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APPENDIX 7 – Award Term and Condition Regarding Trafficking in Persons

The following award term and condition, which is required by 2 CFR part 175, applies as written:

a. Provisions applicable to a grantee that is a private entity.

1.You as the grantee, your employees, subrecipients under this award, and subrecipients' employees may not—

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ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2.We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity:

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by HUD at 2 CFR 2424.

b. Provision applicable to a grantee other than a private entity.
We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:

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i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by HUD at 2 CFR 2424.

c. Provisions applicable to any grantee.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1."Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

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i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by HUD at 2 CFR 2424.

c. Provisions applicable to any grantee.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1."Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

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3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Jenny Niemann, Climate Program Manager

Co-Submitter:

Date: 3/7/23

Meeting Date: 3/21/23

TITLE:

Consideration and Approval of Agreement: Grant agreement between the U.S. Department of Housing and Urban Development and the City of Flagstaff for the Flagstaff Home Energy Retrofit Program for low-income and vulnerable families.

STAFF RECOMMENDED ACTION:

Approve the U.S. Department of Housing and Urban Development grant for FY2022 Economic Development Initiative, Community Project Funding Grant (B-22-CP-AZ-0018), in the amount of $750,000 for the Flagstaff Home Energy Retrofit Program for low-income and vulnerable families.

EXECUTIVE SUMMARY:

The U.S. Department of Housing and Urban Development (HUD) has approved Community Project Funding for the FY2022 Economic Development Initiative, Community Project Funding (CPF) /congressionally directed spending grant, as funded by the Congress in the Consolidated Appropriations Act, 2022 (PL 117-103) (the Act) and as described in the Explanatory Statement accompanying the Act.

This CPF grant funding will be used to provide home energy retrofits to residents through the Flagstaff Home Energy Retrofit Program. The program aims to help low-income and vulnerable households make home investments that will save energy, lower utility bills, improve health, and reduce greenhouse gas emissions.

This program will build on a former energy retrofit program run by the City of Flagstaff from 2011 – 2014, funded partly by the Energy Efficiency Conservation Block Grant program. The City will use the framework from the past award-winning program to rapidly develop a revamped program that focuses specifically on low-income and vulnerable households and home electrification.

The program will be managed by City of Flagstaff staff in collaboration with local contractors and other regional partners. Administrative tasks include application intake, verifying requested repairs, procurement, verifying completion, contractor payment, and file documentation. The City will contract with local contractors to make the repairs. Retrofits will be subsidized at a sliding scale based on income, with subsidies covering most or all of the cost of retrofits for most families.

The program will provide up to 80 home retrofits, serving low-income and vulnerable households in Flagstaff. This program targets low-income and vulnerable households due to the persistent high energy burdens faced by these groups.

- Low-income is defined using the HUD low-income limits. They are defined as households with incomes less than 80% of the Flagstaff area median income (AMI) in the past year.
- Vulnerable families are defined as those families that face additional risk of housing insecurity and climate change. Examples include having a family member with a disability or health condition, a history of housing insecurity, or children in the household. This is a broad definition that will be refined as the program is developed.

The program will be available for both owner- and renter-occupied units and will seek to serve all housing types (single-family and multi-family housing).

FINANCIAL IMPACT:

Total cost to implement this program is estimated at $763,936.00.

- The City of Flagstaff will receive $750,000 in funding from the U.S. Department of Housing and Urban Development.
- The City will contribute staff time to manage the program, totalling approximately $13,936.00.

In the future, the City may wish to further supplement this program in order to reach more residents and/or accelerate the implementation of this program. Any supplemental program funding will be requested via the fiscal year budget process.

POLICY IMPACT:

Implementation of the Flagstaff Home Retrofit Program, primarily funded through this grant, will:

- Directly support Flagstaff residents in making energy-efficient improvements to their home, resulting in improvements to comfort, healthier indoor air quality, and lower utility expenses.
- Enable low-income and vulnerable Flagstaff households to more actively participate in energy efficiency programs and better distribute the benefits of City climate action across the community.
- Reduce greenhouse gas emissions from participating homes, contributing to the City's Carbon Neutrality Goals.

CONNECTION TO COUNCIL GOAL AND REGIONAL PLAN:

Priority Based Budget Key Community Priorities and Objectives:

- Inclusive & engaged community: Promote environmental justice and the fair distribution of environmental benefits.
- Environmental Stewardship: implement sustainable building practices, enhance waste diversion programs, alternative energy programs & multi-modal transportation options.

Carbon Neutrality Plan

- ES-3: Design targeted climate policies and programs to serve disproportionately impacted communities first.
- RS-3: Support fuel switching in existing residential and commercial buildings.
- BE-3: Reduce energy use in existing buildings.

Regional Plan Goal:

- E&C.2: Achieve carbon neutrality for the Flagstaff community by 2030.
- Policy E&C.2.1. Encourage the reduction of all energy consumption, especially fossil-fuel generated energy, in public, commercial, industrial, and residential sectors.

Has There Been Previous Council Decision on This:

There has not been a previous council decision on this specific grant. The Council adopted the Carbon Neutrality Plan in June 2021 and adopted revisions in December 2022.

Attachments:

FY 2022 COMMUNITY PROJECT FUNDING
GRANT AGREEMENT NO. B-22-CP-AZ-0018

Grantee Name: City of Flagstaff
Grantee Address: 211 West Aspen Avenue Flagstaff, AZ 86001
Grantee's Unique Entity Identifier (UEI): XMMUMPKTLVQ3
Grantee's Employer Identification Number (EIN) 86-6000244
Federal Award Identification Number (FAIN) B-22-CP-AZ-0018
Assistance Listing Number and Name 14.251 Economic Development Initiative, Community Project Funding, and Miscellaneous Grants
Period of Performance/Budget Period Start Date Date of grant obligation
Period of Performance/Budget Period End Date August 31, 2030

This Grant Agreement between the Department of Housing and Urban Development (HUD) and City of Flagstaff (the Grantee) is made pursuant to the authority of the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the Explanatory Statement for Division L of that Act, which was printed in the House section of the Congressional Record on March 9, 2022 (Explanatory Statement); and superseding provisions of the Consolidated Appropriations Act, 2023 (Public Law 117-328).

In reliance upon and in consideration of the mutual representations and obligations under this Grant Agreement, HUD and the Grantee agree as follows:

ARTICLE I. Definitions

The definitions at 2 CFR 200.1 apply to this Grant Agreement, except where this Grant Agreement specifically states otherwise.

Budget period is defined in 2 CFR 200.1 and begins and ends on the dates specified above for the Period of Performance/Budget Period Start Date and Period of Performance/Budget Period End Date.

Period of Performance is defined in 2 CFR 200.1 and begins and ends on the dates specified above for the Period of Performance/Budget Period Start Date and Period of Performance/Budget Period End Date.

ARTICLE II. Total Grant Amount

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of $750,000 available to the Grantee.

ARTICLE III. Award-Specific Requirements

A. Federal Award Description. The Grantee must use the Federal funds provided under this Grant Agreement (Grant Funds) to carry out the Grantee's "Project." Unless changed in accordance with Article III, section C of this Grant Agreement, the Grantee's Project shall be as described in the Project Narrative that is approved by HUD as of the date that HUD signs this Grant Agreement. For reference, HUD will attach this approved Project Narrative as Appendix 1 to the Grant Agreement on the date that HUD signs this Grant Agreement.

B. Approved Budget. The Grantee must use the Grant Funds as provided by the Approved Budget. Unless changed in accordance with Article III, section C of this Grant Agreement, the Approved Budget shall be the line-item budget that is approved by HUD as of the date that HUD signs this Grant Agreement. For reference, HUD will attach this approved line-item budget as Appendix 2 to this Grant Agreement on the date that HUD signs this Grant Agreement.

C. Project and Budget Changes. All changes to the Grantee's Project or Approved Budget must be made in accordance with 2 CFR 200.308 and this Grant Agreement. To request HUD's approval for a change in the Project or Approved Budget, the Grantee must submit a formal letter to the Director of HUD's Office of Economic Development - Congressional Grants Division through the assigned Grant Officer. The letter must be submitted by email to the assigned Grant Officer and must provide justification for the change. The email submitting the letter must also include a revised project narrative or revised line-item budget, as applicable, that includes the requested change. The Grantee is prohibited from making project or budget changes that would conflict with the Applicable Appropriations Act Conditions described in Article III, section D of this Grant Agreement. The assigned Grant Officer for this grant is provided in the Award Letter for this grant and found on HUD's website. The HUD Office of Economic Development – Congressional Grants Division will notify the Grantee in writing, by email, whether HUD approves or disapproves the change. Before the Grantee expends Grant Funds in accordance with any change approved by HUD or otherwise allowed by 2 CFR 200.308, the Grantee must update its grant information in Disaster Recovery Grant Reporting (DRGR) to reflect that change.

D. Applicable Appropriations Act Conditions. The conditions that apply to the Grant Funds as provided by the Consolidated Appropriations Act, 2022, the Explanatory Statement, and the Consolidated Appropriations Act, 2023 are hereby incorporated and made part of this Grant Agreement. In the event of a conflict between those conditions, the conditions provided by the later Act will govern. The Grant Funds are not subject to the Community Development Block Grants regulations at 24 CFR part 570 or Title I of the Housing and Community Development Act of 1974.

E. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant. As authorized under 2 CFR 200.307(e)(2), program income may be treated as an addition to the Federal award, provided that the Grantee uses that income for allowable costs under this Grant Agreement. In accordance with 2 CFR 200.307(b), costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the grant. Any program income that cannot be expended on allowable costs under this Grant Agreement must be paid to HUD before closeout of the grant, unless otherwise specified by an applicable Federal statute.

F. The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee's indirect cost rate information is as provided in Appendix 3 to this Grant Agreement. Unless the Grantee is an Institution of Higher Education, the Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate during the Period of Performance, so that HUD can amend the Grant Agreement to reflect the change if necessary. Consistent with 2 CFR part 200, Appendix III (C.7), if the Grantee is an Institution of Higher Education and has a negotiated rate in effect on the date this Grant Agreement is signed by HUD, the Grantee may use only that rate for its indirect costs during the Period of Performance.

G. The Grantee must comply with any specific award conditions that HUD may attach to this Grant Agreement as provided by 2 CFR 200.208. If applicable, these conditions will be listed or added as Appendix 5 to this Grant Agreement.

H. The Grantee is responsible for managing the Project and ensuring the proper use of the Grant Funds. The Grantee is also responsible for ensuring the completion of the Project, the grant closeout, and compliance with all applicable federal requirements. The Grantee may subaward all or a portion of its funds to one or more subrecipients, as identified in the Project Narrative (Appendix 1) or as may be approved by HUD in accordance with 2 CFR 200.308. All subawards made with funding under this Grant Agreement are subject to the subaward requirements under 2 CFR art 200, including 2 CFR 200.332, and other requirements provided by this Grant Agreement. The Grantee is responsible for ensuring each subrecipient complies with all requirements under this Grant Agreement, including the general federal requirements in Article IV. A subaward may be made to a for-profit entity only if HUD expressly approves that subaward, and the for-profit entity is made subject to the same Federal requirements that apply to all other subrecipients, including the requirements 2 CFR part 200 provides for a "non-Federal entity" that receives a subaward.

ARTICLE IV. General Federal Requirements

A. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, the Grantee is the Responsible Entity (as defined in 24 CFR part 58) and agrees to assume all of the responsibilities for environmental review and decision-making and action, as specified and required in regulations issued by the Secretary pursuant to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR art 58.

B. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe or Alaskan Native Village, within which the Project is located and which exercises land use responsibility, to act as Responsible Entity and assume all of the responsibilities for environmental review and decision-making and action as specified in paragraph A above, and the Grantee shall carry out all of the responsibilities of a grantee under 24 CFR art 58.

C. After Grantee's receipt of the Letter of Invitation for this grant, neither the Grantee nor any of its contractors, subrecipients and other funding and development partners may undertake, or commit or expend Grant Funds or local funds for, project activities (other than for planning, management, development and administration activities), unless a contract requiring those activities was already executed prior to the Letter of Invitation, until one of the following occurs: (i) the Responsible Entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and given a release of funds; (ii) the Responsible Entity has determined and documented in its environmental review record that the activities are exempt under 24 CFR 58.34 or are categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or (iii) HUD has performed an environmental review under 24 CFR part 50 and has notified Grantee in writing of environmental approval of the activities.

D. Following completion of the environmental review process, the Grantee (recipient) shall exercise oversight, monitoring, and enforcement as necessary to assure that decisions and mitigation measures adopted through the environmental review process are carried out during project development and implementation.

E. The Grantee must comply with the generally applicable HUD and CPD requirements in 24 CFR part 5, subpart A, including all applicable fair housing, and civil rights requirements. If the Grantee is a Tribe or a Tribally Designated Housing Entity (TDHE) as established under 24 CFR 1000.206, the Grantee must comply with the nondiscrimination requirements in 24 CFR 1000.12 in lieu of the nondiscrimination requirements in 24 CFR 5.105(a). The Grantee must report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of the Grantee's Project, consistent with the instructions and forms provided by HUD in order to carry out its responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987 (e.g. HUD-27061).

F. The Grantee must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR part 200, as may be amended from time to time. If 2 CFR part 200 is amended to replace or renumber sections of part 200 that are cited specifically in this Grant Agreement, the part 200 requirements as renumbered or replaced by the amendments will govern the obligations of HUD and the Grantee after those amendment become effective.

G. The Grantee must comply with the Award Term in Appendix A to 2 CFR part 25 ("System for Award Management and Universal Identifier Requirements") and the Award Term in Appendix A to 2 CFR part 170 ("Reporting Subawards and Executive Compensation"), which are hereby incorporated into and made part of this Grant Agreement.

H. If the Total Grant Amount, as provided in Article II of this Grant Agreement, is greater than $500,000, the Grantee must comply with the Award Term and Condition for Grantee Integrity and Performance Matters in Appendix 4 to this Grant Agreement.

I. Unless the Grantee is exempt from the Byrd Amendment as explained below, the Grantee must comply with the provisions of Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment) and 24 CFR part 87, which prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, loan, or cooperative agreement. The Grantee must include in its award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements), the requirements for the certification required by Appendix A to 24 CFR part 87 and for disclosure using Standard Form- LLL (SF-LLL), "Disclosure of Lobbying Activities." In addition, the Grantee must obtain the executed certification required by Appendix A and an SF-LLL from all covered persons. "Person" is as defined by 24 CFR part 87. Federally recognized Indian tribes and TDHEs established by Federally recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment. State-recognized Indian tribes and TDHEs established only under state law must comply with this requirement.

J. The Grantee must comply with drug-free workplace requirements in Subpart B of 2 CFR part 2429, which adopts the governmentwide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988, Pub. L. 100-690, Title V, Subtitle D (41 U.S.C. 701-707).

K. The Grantee must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) as implemented by regulations at 49 CFR part 24. The URA applies to acquisitions of real property and relocation occurring as a direct result of the acquisition, rehabilitation, or demolition of real property for Federal or Federally funded programs or projects. Real property acquisition that receives Federal financial assistance for a program or project, as defined in 49 CFR 24.2, must comply with the acquisition requirements contained in 49 CFR part 24, subpart B. Unless otherwise specified in law, the relocation requirements of the URA and its implementing regulations at 49 CFR part 24, cover any displaced person who moves from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD financial assistance

L. If Grant Funds are used for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead- based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead- based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

M. The Grantee must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u, and HUD's regulations at 24 CFR part 75, as applicable, including the reporting requirements in 24 CFR 75.25. Grants made to Tribes and TDHEs are subject to Indian Preference requirements in Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). As stated in 24 CFR 75.3(c), grants to Tribes and TDHEs are subject to Indian Preference requirements in lieu of Section 3. Grantees that are not exempt from Section 3 must submit annual reports of Section 3

accomplishment Performance Measures in DRGR in January of the calendar year. This report reflects Section 3 accomplishments for the previous calendar year.

N. The Grantee must not use any Grant Funds to support any Federal, state, or local project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use. Public use includes use of funds for mass transit, railroad, airport, seaport, or highway projects, and utility projects which benefit or serve the general public (including energy-related, communication-related, water-related, and waste water-related infrastructure), other structures designated for use by the general public or with other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields, as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107-118). Public use does not include economic development that primarily benefits private entities.

O. The Grantee must not use any Grant Funds to maintain or establish a computer network that does not block the viewing, downloading, and exchanging of pornography. This requirement does not limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

P. The Grantee must administer its Grant Funds in accordance with the Conflict of Interest requirements set forth in Appendix 6 of this Grant Agreement.

Q. The Grantee must comply with the governmentwide debarment and suspension requirements in 2 CFR part 180 as incorporated and supplemented by HUD's regulations at 2 CFR part 2424.

R. The Grantee must comply with the award term and condition regarding trafficking in persons in Appendix 7 of this Grant Agreement.

S. The assurances and certifications the Grantee has made and submitted to HUD are incorporated by this reference and made part of this Grant Agreement.

ARTICLE V. Drawdown Requirements

A. The Grantee may not draw down Grant Funds until HUD has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying, if applicable.

B. The Grantee must use HUD's Disaster Recovery Grant Reporting (DRGR) system to draw down Grant Funds and report to HUD on activities.

C. The Grantee must enter activity and budget information in DRGR that is consistent with the Project and Approved Budget as described in Article III, sections A and B of this Grant Agreement and complies with HUD's instructions for entering information in DRGR found in

the document titled "Grant Award Instructions" that accompanies the Grant Agreement. The Grantee must only enter activities in DRGR that are described in the Approved Budget.

D. The Grantee must expend all Grant Funds in accordance with the activity and budget information in DRGR.

E. Each drawdown of Grant Funds constitutes a representation by the Grantee that the funds will be used in accordance with this Grant Agreement.

F. The Grantee must use DRGR to track the use of program income and must report the receipt and use of program income in the reports the Grantee submits to HUD under Article VI of this Grant Agreement. The Grantee must expend program income before drawing down Grant Funds through DRGR.

G. Notwithstanding any other provision of this grant agreement, HUD will not be responsible for payment of any Grant Funds after the date Treasury closes the account in accordance with 31 U.S.C. § 1552. Because Treasury may close the account up to one week before the September 30 date specified by 31 U.S.C. § 1552, the grantee is advised to make its final request for payment under the grant no later than September 15, 2030.

ARTICLE VI. Program-Specific Reporting Requirements

In addition to the general reporting requirements that apply under other provisions of this Agreement, the following program-specific reporting requirements apply to the Grantee:

A. The Grantee must submit a performance report in DRGR on a semi-annual basis and must include a completed Federal financial report as an attachment to each performance report in DRGR. Performance reports shall consist of a narrative of work accomplished during the reporting period. During the Period of Performance, the Grantee must submit these reports in DRGR no later than 30 calendar days after the end of the 6-month reporting period. The first of these reporting periods begins on the first of January or June (whichever occurs first) after the date this Grant Agreement is signed by HUD.

B. The performance report must contain the information required for reporting program performance under 2 CFR 200.329(c)(2) and (d), including a comparison of actual accomplishments to the objectives of the Project as described in Article III, section A of this Grant Agreement; the reasons why established goals were not met, if appropriate; and additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

C. Financial reports must be submitted using DRGR or such future collections HUD may require and as approved by OMB and listed on the Grants.gov website (https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html).

D. The performance and financial reports will undergo review and approval by HUD. If a report submission is insufficient, HUD will reject the report in DRGR and identify the corrections the Grantee must make.

E. No drawdown of funds will be allowed through DRGR while the Grantee has an overdue performance or financial report.

F. The Grantee must report and account for all property acquired or improved with Grant Funds as provided by 2 CFR part 200 using the applicable common forms approved by OMB and provided on the Grants.gov website (https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html). This reporting obligation includes submitting status reports on real property at least annually as provided by 2 CFR 200.330, accounting for real and personal property acquired or improved with Grant Funds as part of Project Closeout, and promptly submitting requests for disposition instructions as provided by 2 CFR 200.311(c), 200.313(e), and 200.314(a).

ARTICLE VII. Project Closeout

A. The grant will be closed out in accordance with 2 CFR part 200, as may be amended from time to time, except as otherwise specified in this Grant Agreement.

B. The Grantee must submit to HUD a written request to closeout the grant no later than 30 calendar days after the Grantee has drawn down all Grant Funds and completed the Project as described in Article III, section A of this Grant Agreement. HUD will then send the Closeout Agreement and Closeout Certification to the Grantee.

C. At HUD's option, the Grantee may delay initiation of project closeout until the resolution of any findings as a result of the review of semi-annual activity reports in DRGR. If HUD exercises this option, the Grantee must promptly resolve the findings.

D. The Grantee recognizes that the closeout process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any HUD review, including reasonable requests for on-site inspection of property acquired or improved with Grant Funds.E. No

1. A Certification of Project Completion.

2. A Grant Closeout Agreement.

3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of 2 CFR part 200, subpart E); a certification of the costs; and the amounts and sources of other project funds.

4. A final performance report providing a comparison of actual accomplishments with the objectives of the Project as described in Article III, section A of this Grant Agreement, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.

5. A final property report, if specifically requested by HUD at the time of closeout.

ARTICLE VIII. Default

A default under this Grant Agreement shall consist of any use of Grant Funds for a purpose other than as authorized by this Grant Agreement, any noncompliance with statutory, regulatory, or other requirements applicable to the Grant Funds, any other material breach of this Grant Agreement, or any material misrepresentation in the Grantee's submissions to HUD in anticipation of this award. If the Grantee fails to comply with the terms and conditions of the Grant Agreement, HUD may adjust specific conditions of this Grant Agreement as described in 2 CFR part 200, as may be amended from time to time. If HUD determines that noncompliance cannot be remedied by imposing additional conditions, HUD may take one or more of the remedies for noncompliance described in 2 CFR part 200, as may be amended from time to time. HUD may also terminate all or a part of this award as provided by 2 CFR 200.340 and other applicable provisions of 2 CFR part 200, as may be amended from time to time. Nothing in this Grant Agreement shall be construed as creating or justifying any claim against the Federal government or the Grantee by any third party.

ARTICLE IX. HUD Contact Information

Except where this Grant Agreement specifically states otherwise, all requests, submissions, and reports the Grantee is required to make to HUD under this Grant Agreement must be made in writing via email to CPFGrants@hud.gov.

This agreement is hereby executed on behalf of the Grantee and HUD as follows:

GRANTEE

_____

(Name of Organization)

BY: _____
(Signature of Authorized Official)

_____
(Typed Name and Title of Authorized Official)

_____
(Date)

HUD

BY: _____
Robin J. Keegan,
Deputy Assistant Secretary for Economic Development

_____
(Date)

APPENDIX 1 – Project Narrative

APPENDIX 2 – Approved Budget

APPENDIX 3 – Grantee's Indirect Cost Rate Information

Subject to the applicable requirements in 2 CFR part 200 (including its appendices), the Grantee will use an indirect cost rate as represented by the Grantee below:

? The Grantee will not use an indirect cost rate to charge its indirect costs to the grant.

? The Grantee will use the indirect cost rate(s) identified in the table below to charge its indirect costs to the grant.

Agency/Dept./Major Function	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____

[PLEASE NOTE: The grantee must check one of the two boxes above. If the second box is checked, the corresponding table must be filled out as described below.

The table must include each indirect cost rate that will be used to calculate the Grantee's indirect costs under the grant. The table must also specify the type of direct cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR 200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR 200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.]

APPENDIX 4 –
Award Term and Condition for Grantee Integrity and Performance Matters

Reporting of Matters Related to Grantee Integrity and Performance

1. General Reporting Requirement
If the total value of the Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then during that period of time the Grantee must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which Grantee Must Report
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and the Grantee's payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the Grantee's part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. The Grantee does not need to submit the information a second time under assistance awards that the Grantee received if the Grantee already provided the information through SAM because the Grantee was required to do so under Federal procurement contracts that the Grantee was awarded.

4. Reporting Frequency
During any period of time when the Grantee is subject to the requirement in paragraph 1 of this award term and condition, the Grantee must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that the Grantee has not reported previously or affirm that there is no new information to report. If the Grantee has Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000, the Grantee must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions
For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a cost share or match requirement; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

APPENDIX 5 – Specific Award Conditions
NONE.

APPENDIX 6 – Conflict of Interest Requirements

1. *Conflicts Subject to Procurement Regulations.* When procuring property or services, the grantee and its subrecipients shall comply with the applicable conflict-of-interest rules in 2 CFR 200.317 and 2 CFR 200.318(c). In all cases not governed by 2 CFR 200.317 and 2 CFR 200.318(c), the Grantee and its subrecipients must follow the requirements contained in paragraphs 2-5 below.

2. *General prohibition*. No person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee or subrecipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have a financial interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), sibling (including a stepsibling), grandparent, grandchild, and in-laws of a covered person.

3. *Exceptions*. HUD may grant an exception to the general prohibition in paragraph (ii) upon the Grantee's written request and satisfaction of the threshold requirements in paragraph (iv), if HUD determines the exception will further the Federal purpose of the award and the effective and efficient administration of the Grantee's project, taking into account the cumulative effects of the factors in paragraph (v).

4. *Threshold requirements for exceptions*. HUD will consider an exception only after the Grantee has provided the following documentation:

> *a.* A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how that disclosure was made; and
>
> *b.* An opinion of the Grantee's attorney that the interest for which the exception is sought would not violate state or local law.

5. *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the Grantee has satisfactorily met the threshold requirements in paragraph (iii), HUD will consider the cumulative effect of the following factors, where applicable:

> *a.* Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
>
> *b.* Whether an opportunity was provided for open competitive bidding or negotiation;
>
> *c.* Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception

will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process regarding the assisted activity in question;

e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (ii);

f. Whether undue hardship will result either to the Grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

g. Any other relevant considerations.

6. *Disclosure of potential conflicts of interest.* The Grantee must disclose in writing to HUD any potential conflict of interest.

APPENDIX 7 – Award Term and Condition Regarding Trafficking in Persons

The following award term and condition, which is required by 2 CFR part 175, applies as written:

a. Provisions applicable to a grantee that is a private entity.

1.You as the grantee, your employees, subrecipients under this award, and subrecipients' employees may not—

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2.We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity:

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by HUD at 2 CFR 2424.

b. Provision applicable to a grantee other than a private entity.
We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:

i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by HUD at 2 CFR 2424.

c. Provisions applicable to any grantee.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1."Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

9. F.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Ryan Darr, Police Lieutenant
Co-Submitter:	Stacey Brechler-Knaggs
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Grant Agreement: Approve Grant Agreement with the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds in the amount of $219,363.82 for the Northern Arizona Street Crimes Task Force (METRO unit).

STAFF RECOMMENDED ACTION:

Approve the acceptance of the grant from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, Edward Byrne Justice Assistance Grant funds in the amount of $219,363.82 for FY2023-2024.

Executive Summary:

The City of Flagstaff was awarded $219,363.82 in grant funds from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds. This grant fully funds one Flagstaff Police Sergeant, and partially funds one Flagstaff Police investigator, and one Coconino County Sheriff's Deputy investigator. There is no cost to the City of Flagstaff.

Financial Impact:

The grant award is in the amount of $219,363.82 (75%) with required matching funds of $73,121.27 (25%). The METRO board has authorized matching funds from the METRO federal asset sharing account. The Rico account has provided matching funds in the previous years and the board has agreed to provide the above matching funds for this year's grant. This amount will include all city costs, estimated in kind and administrative costs if above normal departmental allocation. The grant award will be the 36th funding cycle (FY 2024) for the METRO unit. This grant is budgeted in Fiscal Year 2023-2024.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Effective Governance - Regional Plan (2030) - Planning, Public Safety, Goal PF.3 Provide high-quality emergency response and public safety services. Safe and healthy community: Provide public safety services with resources, staff, and training responsive to the community needs (for 2024)

Has There Been Previous Council Decision on This:

Yes, the Flagstaff City Council has approved the acceptance of this grant money for the past thirty six years.

Options and Alternatives:

Approve the acceptance of the grant or decline the acceptance of the grant.

Background/History:

As previously stated, this is the 36th cycle of this grant in which the Flagstaff City Council has approved the previous 36 cycles.

Key Considerations:

This grant and the investigative officers this funds is supported by nearly every law enforcement entity in Coconino County including the Coconino County Sheriff's Office, The Flagstaff Police Department, Northern Arizona University Police, ATF, FBI, DEA, Homeland Security and the Department of Public Safety. This grant provides specialized police investigations to all the communities located within Coconino County.

Expanded Financial Considerations:

Community Benefits and Considerations:

Officers in the METRO Unit continuously provide support to numerous community groups including, local schools, Citizens Academy programs, local law enforcement training academies etc. in the form of training and educational presentations, drug awareness, and proactive investigations.

Community Involvement:

To work directly with the public through the process to ensure that public issues and concerns are consistently understood and considered.

Expanded Options and Alternatives:

If approved the grant would allow for the acceptance of $219,363.82 in federal funds that will provide proactive enforcement that would otherwise not be available to our citizens.

Attachments: METRO grant FY2024

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Arizona Criminal Justice Commission

Chairperson
STEVE STAHL
Law Enforcement Leader

Vice-Chairperson
DAVID K. BYERS, Director
Administrative Office of the Courts

JEAN BISHOP
Mohave County Supervisor

LAURA CONOVER
Pima County Attorney

JEFF GLOVER
Department of Public Safety

KRIS MAYES
Attorney General

MINA MENDEZ
Board of Executive Clemency

RACHEL MITCHELL
Maricopa County Attorney

CHRIS NANOS
Pima County Sheriff

PAUL PENZONE
Maricopa County Sheriff

KARA RILEY
Oro Valley Chief of Police

DAVID SANDERS
Pima County Chief Probation Officer

RYAN THORNELL, Director
Department of Corrections,
Rehabilitation, and Reentry

VACANT
Former Judge

VACANT
County Sheriff

VACANT
Chief of Police

VACANT
Chief of Police

VACANT
Mayor

VACANT
County Attorney

Executive Director
Andrew T. LeFevre

1110 West Washington, Suite 230
Phoenix, Arizona 85007
PHONE: (602) 364-1146
FAX: (602) 364-1175
www.azcjc.gov

May 22, 2023

Attn: Stacey Brechler-Knaggs, Grants and Contracts Manager
City of Flagstaff
211 West Aspen
Flagstaff, AZ 86001

RE: Drug, Gang, and Violent Crime Control (DGVCC) FY 2024 Award, DC-24-002

Dear Stacey Brechler-Knaggs,

On behalf of the Arizona Criminal Justice Commission, it is my pleasure to inform you that your agency's application has been approved for funding under the FY 2024 Drug, Gang, and Violent Crime Control Program.

Paragraphs six and seven of the enclosed agreement provide the amount of funding awarded to your agency and the specific positions that have been funded. Below, please find additional information that will assist in the administration of your agency's grant award.

Grant Agreement and Other Required Documents: Please review the grantee agreement and accompanying instructions as revisions or new requirements may have been included. Please follow the directions outlined in the Grant Agreement instructions, as well as instructions received in DocuSign to execute the contract in its entirety with electronic authorized signatures. Agreements not returned within 90 days of the award date with authorized signatures may be canceled. Additionally, please refer to the Special Conditions section of the grant agreement for a listing of other required documents, as applicable.

Administrative and Financial Requirements: In addition to applicable uniform administrative requirements and cost principles, award recipients are required to adhere to grant specific program requirements as defined in the grant agreement.

Reporting: Activity and financial reports are required for this grant and the reporting schedules are contained in the agreement. Financial Reporting can be accessed at: https://grantsportal.azcjc.gov/. Activity reporting can be accessed at: https://acjcreporting.azcjc.gov/.

Office of Civil Rights Requirements: Annual Completion of Civil Rights Training is required for this grant. Grantees must contact the Grant Coordinator to obtain registration to access the training. If applicable, agencies awarded must complete an EEOC plan and submit it to the Office of Civil Rights, Office of Justice Programs. Link to helpful EEOP information: https://ojp.gov/about/offices/ocr.htm.

If you have any questions, please contact Siyeni Yitbarek at syitbarek@azcjc.gov or 602.364.1163. Our office looks forward to the continued partnership.

Sincerely,

Tony Vidale

Tony Vidale, Deputy Director
Drug, Gang, and Violent Crime Control Program

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ARIZONA CRIMINAL JUSTICE COMMISSION

DRUG, GANG, AND VIOLENT CRIME CONTROL GRANT AGREEMENT

ACJC Grant Number DC-24-002
Assistance Listings Number (ALN) Number 16.738

The following information is provided pursuant to 2 §C.F.R. 200.331(a)(1):

Grantee Name: City of Flagstaff
Grantee's UEI Number: 088302625
Grantee Period of Performance Start and End Date: 07/01/2023 to 06/30/2024
Amount of Federal Funds Obligated by this Agreement: $119,918.89
Total Amount of Federal Funds Obligated to the Grantee: $119,918.89
Indirect Cost Rate used by the Grantee under this Agreement: 0
ALN Number and Name: 16.738 - Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Name of Federal Awarding Agency: Department of Justice, Office of Justice Programs
Total Amount of the Federal Award in this Agreement: $4,090,656.00
Federal Award Identification Number (FAIN): 15PBJA-21-GG-00265-JAGX
Federal Award Date: 09/13/2020

Federal Award Project Description:
In general, JAG funds awarded to a state under this FY2024 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs

Name of Pass-Through Entity: Arizona Criminal Justice Commission
Contact Information for Pass-Through Entity: Arizona Criminal Justice Commission, 1110 W. Washington Street, Suite 230, Phoenix, AZ, 85007
Identification of Whether the Award is Research and Development: No
Indirect Cost Rate for the Federal Award: 0

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This Grant Agreement is made this 22nd day of May, 2023 by and between the ARIZONA CRIMINAL JUSTICE COMMISSION hereinafter called "COMMISSION" and UNKNOWN JURISDICTION, through CITY OF FLAGSTAFF hereinafter called GRANTEE. The COMMISSION enters into this Agreement pursuant to its authority under the provisions of A.R.S. § 41-2405 (B)(6), and having satisfied itself as to the qualification of GRANTEE;

NOW, THEREFORE, it is agreed between the parties as follows:

1. This Agreement will commence on July 01, 2023 and terminate on June 30, 2024. This Agreement expires at the end of the award period unless prior written approval for an extension has been obtained from the COMMISSION. A request for an extension must be received by the COMMISSION sixty (60) days prior to the end of the award period. The COMMISSION in its sole discretion may approve an extension that furthers the goals and objectives of the program and shall determine the length of any extension.

2. GRANTEE agrees that grant funds will be used in accordance with applicable program rules, guidelines and special conditions.

3. The COMMISSION will monitor GRANTEE performance against program goals and performance standards and
those outlined in the grant application. Substandard performance as determined by the COMMISSION will constitute noncompliance with this Agreement. If the COMMISSION finds noncompliance, the GRANTEE will receive a written notice which identifies the area of noncompliance, and the appropriate corrective action to be taken. If the GRANTEE does not respond within thirty (30) calendar days to this notice, and does not provide sufficient information concerning the steps which are being taken to correct the problem, the COMMISSION may suspend funding, permanently terminate this Agreement or revoke the grant.

4. Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior written COMMISSION approval may constitute sufficient reason for the COMMISSION to terminate this Agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.

5. This Agreement may be modified only by a written amendment signed by the Executive Director or by persons authorized by the Executive Director on behalf of the COMMISSION and GRANTEE. Any notice given pursuant to this Agreement shall be in writing and shall be considered to have been given when actually received by the following addressee or their agents or employees:

A. If to the COMMISSION:
Arizona Criminal Justice Commission
1110 W Washington St., Ste 230
Phoenix, Arizona 85007

Attn: Program Manager

B. If to the GRANTEE:
City of Flagstaff
211 West Aspen
Flagstaff, AZ 86001

Attn:Grants and Contracts Manager, Stacey Brechler-Knaggs

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6. For grant awards above $100,000, GRANTEE may make budget adjustments of up to ten (10) percent of the total grant within any approved budget category excluding equipment. Written approval from the COMMISSION in advance is required if GRANTEE wishes to make adjustments or reprogram in excess of ten (10) percent or if GRANTEE wishes to purchase equipment not previously approved.

For grant awards less than $100,000, the GRANTEE may make budget adjustments within approved categories excluding equipment as long as there are no changes to the purpose or scope of the project. If GRANTEE wishes to purchase equipment not previously approved, written approval from the COMMISSION in advance is required.

APPROVED LINE ITEM PROGRAM BUDGET	
PERSONAL SERVICES	
Salaries	$133,993.45
Fringe Benefits*	$100,501.24
OVERTIME	
Wages	$0.00
Fringe Benefits*	$0.00
PROFESSIONAL CONSULTANT & CONTRACTUAL SERVICES	
Wages	$57,990.40
Fringe Benefits*	$0.00
TRAVEL EXPENSES	
In-State Travel	$0.00
Out-of-State Travel	$0.00
EQUIPMENT	
Capital	$0.00
Non-Capital	$0.00
OPERATING EXPENSES	
Supplies	$0.00
Registration/Training	$0.00
Other Operating Expenses	$0.00
Confidential Funds	$0.00
Additional Expenses	$0.00
TOTAL BUDGET	$292,485.09

POSITIONS FUNDED: Flagstaff PD Sergeant (1), Flagstaff Investigator (.73), Investigator, Outside Agency (1)
EQUIPMENT FUNDED:

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7. The total to be paid by the COMMISSION under this Agreement shall not exceed $119,918.89 in federal funds awarded to the COMMISSION by the U.S. Department of Justice (USDOJ), Office of Justice Programs (OJP) and $99,444.93 in State Funds. If this grant has a matching requirement, GRANTEE understands that other federal grant funds cannot be used as a match for this grant. The matching amount for this award is $73,121.27.

8. Every payment obligation of the COMMISSION under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the COMMISSION. No liability shall accrue to the COMMISSION in the event this provision is exercised, and the COMMISSION shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. GRANTEE agrees that if it currently has an active award of federal funds or if it receives any other award of federal funds during the period of performance for this award, and those award funds have been, are being or are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this award, GRANTEE will promptly notify, in writing, the COMMISSION, of the potential of duplication, and if so requested by the COMMISSION, seek a budget modification or change-of-project-scope grant adjustment request (GAR) to eliminate any inappropriate duplication of funding.

10. GRANTEE agrees to retain all books, account reports, files and other records, (paper and/or electronic) relating to this Agreement and the performance of this Agreement for no less than five (5) years from the last financial report submitted to the COMMISSION. All such documents shall be subject to inspection and audit at reasonable times, including such records of any subgrantee, contractor, or subcontractor. GRANTEE also understands and agrees that USDOJ and the United States General Accounting Office (USGAO) are authorized to interview any officer or employee of the GRANTEE (or of any subgrantee, contractor, or subcontractor) regarding transactions related to this award.

11. GRANTEE agrees that activities funded under this award will be closely coordinated with related activities supported with Office of Justice Programs (OJP), State, local or tribal funds. Grant funds may only be used for the purposes in the GRANTEE's approved application. GRANTEE shall not undertake any work or activities not described in the grant application, including staff, equipment, or other goods or services without prior approval from the COMMISSION.

12. GRANTEE agrees to track, account for, and report on all funds (including specific outcomes and benefits) separately from all other funds for the same or similar purposes or programs.

Accordingly, the accounting systems of GRANTEE and all subgrantees must ensure that funds from this award are not commingled with funds from any other source.

13. GRANTEE agrees to abide by Federal and State laws and provide accounting, auditing and monitoring procedures to safeguard grant funds and keep such records to assure proper fiscal controls, management and the efficient disbursement of grant funds.

14. For the purposes of this grant, a capital expenditure means expenditures to acquire capital assets, as defined in 2 C.F.R. 200.12, or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life, with a cost of $5,000 or greater. If the GRANTEE's capitalization policy defines a capital expenditure as less than $5,000, the GRANTEE will follow its own policy.

15. GRANTEE agrees to maintain property records for equipment purchased with grant funds and perform a physical inventory and reconciliation with property records at least every two years or more frequently if required by GRANTEE policy. GRANTEE agrees that funds will not be used for the construction of new facilities.

16. GRANTEE agrees to follow equipment disposition policies outlined in 2 C.F.R. 200.313(e)(1) through (4) *Uniform Administrative Requirements for Grants and Cooperative Agreements-Equipment*, when the equipment is no longer needed for the grant program **Link:** *e-CFR Navigation Aid* at http://www.ecfr.gov/cgi-bin/ECFR?page=browse.

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17. GRANTEE agrees that all salaried personnel (including subgrantee personnel) whose activities are to be charged to the award will maintain timesheets or certifications to document hours worked for activities related to this award and non-award related activities. GRANTEE agrees to keep time and attendance sheets for hourly employees signed by the employee and supervisory official having firsthand knowledge of the work performed by the grant-funded employees.

18. GRANTEE agrees that it will submit financial and activity reports to the COMMISSION in a format provided by the COMMISSION, documenting the activities supported by these grant funds and providing an assessment of the impact of these activities which may include documentation of project milestones. In the event reports are not received on or before the indicated date(s), funding may be suspended until such time as delinquent report(s) are received.

19. These reports are to be submitted according to the following schedule(s):

ACTIVITY REPORTS	
Report Period	Due Date
July 1st to September 30th	October 15th
October 1st to December 31st	January 15th
January 1st to March 31st	April 15th
April 1st to June 30th	July 15th

FINANCIAL REPORTS	
Report Period	Due Date
July 1st to July 31st	August 25th
August 1st to August 31st	September 25th
September 1st to September 30th	October 25th
October 1st to October 31st	November 25th
November 1st to November 30th	December 25th
December 1st to December 31st	January 25th
January 1st to January 31st	February 25th
February 1st to February 28/29th	March 25th
March 1st to March 31st	April 25th
April 1st to April 30th	May 25th
May 1st to May 31st	June 25th
June 1st to June 30th	July 25th

Additional reporting requirements may be required for GRANTEES who are considered high risk.

20. GRANTEE understands that financial reports are required as an accounting of expenditures for either reimbursement or COMMISSION-approved advance payments.

21. The final request for reimbursement of grant funds must be received by the COMMISSION no later than sixty (60) days after the last day of the award period.

22. All goods and services must be received or have reasonable expectations thereof and placed in service by GRANTEE by the expiration of this award.

23. GRANTEE agrees that all encumbered funds must be expended and that goods and services must be paid by GRANTEE within sixty (60) days of the expiration of this award.

24. GRANTEE agrees to remit all unexpended grant funds to the COMMISSION within thirty (30) days of written request from the COMMISSION.

25. GRANTEE agrees to account for interest earned on federal grant funds and shall manage interest income in accordance with the Cash Management Improvement Act of 1990 and as indicated in the Office of Justice Programs Financial Guide. Interest earned in excess of allowable limits must be remitted to the COMMISSION within 30 days after receipt of a written request from the COMMISSION. **Link:** *OJP Financial Guide* at https://ojp.gov/financialguide/doj/pdfs/DOJ_FinancialGuide.pdf.

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26. GRANTEE agrees to obtain written COMMISSION approval for all sole source procurements in excess of $250,000.

27. GRANTEE agrees to obtain written COMMISSION approval prior to the expenditure of grant funds for consultant fees in excess of $650 per day.

28. GRANTEE agrees to not use federal grant funds to pay cash compensation (salary plus bonuses) to any employee paid by the grant at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds, unless otherwise noted in the grant solicitation.)

29. GRANTEE agrees not to use grant funds for food and/or beverage unless explicitly approved in writing by the COMMISSION.

30. GRANTEE agrees to comply with all applicable laws, regulations, policies and guidance (including specific cost limits, prior approvals and reporting requirements, where applicable) governing the use of grant funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events unless explicitly approved in writing by the COMMISSION. Information on pertinent laws, regulations, policies, and guidance is available in the OJP Financial Guide (currently, as section 3.10 "Postaward Requirements" in the DOJ Grants Financial Guide).

31. No funds shall be used to supplant federal, state, county or local funds that would otherwise be made available for such purposes. Supplanting means the deliberate reduction of state or local funds because of the existence of any grant funds.

32. GRANTEE assigns to the COMMISSION any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services applied by third parties to GRANTEE in exchange for grant funds provided under this Agreement.

33. The parties agree to use arbitration in the event of disputes in accordance with the provisions of A.R.S. § 12-1501-12-1518. The laws of the State of Arizona apply to questions arising under this Agreement and any litigation regarding this Agreement must be maintained in Arizona courts, except as pertaining to disputes which are subject to arbitration.

I. In the event of a dispute, controversy, or claim arising out of or relating in any way to the Agreement, the complaining Party shall notify the other Party in writing thereof. Within 30 calendar days of such notice, representatives of both Parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within 30 calendar days after such notice, the complaining Party shall seek remedies exclusively through arbitration, in accordance with the provisions of A.R.S. § 12-1501 through 12-1518.

II. The arbitration demand must be a clear and concise statement of the claim or dispute. The respondent's answer and any counterclaims must be filed within 20 calendar days of service of the demand.

III. The arbitration shall be conducted in Maricopa County.

IV. The arbitration shall be conducted by one arbitrator. If the Parties are not able to agree upon the selection of an arbitrator, within 20 calendar days of the commencement of an arbitration proceeding by service of a demand for arbitration, the court on application of a Party shall appoint the arbitrator.

V. The arbitrator must promptly set a conference to clarify the claims and defenses, to establish fair procedures, and to set a schedule for completing the arbitration.

VI. It is the intent of the parties that, barring extraordinary circumstances, arbitration proceedings will be concluded with 120 calendar days from the date the arbitrator is appointed. The arbitrator may extend the time limit in the interests of justice. Failure to adhere to this time limit shall not constitute a basis for challenging the award.

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VII. The arbitrator must issue a written, reasoned award within 20 calendar days from the date the hearing is formally closed, or as soon after that as is feasible. The sole remedy will be actual damages; no punitive damages are allowed.

VIII. Unless the arbitrator orders otherwise, the Parties must share arbitration costs equally, including arbitrator's fees and expenses. Each party must pay its own expenses and attorney's fees.

34. GRANTEE understands that grant funds may not be released until all delinquent reports and reversion of funds from prior grants are submitted to the COMMISSION.

35. GRANTEE agrees that grant funds are not to be expended for any indirect costs that may be incurred by GRANTEE for administering these funds unless explicitly approved in writing by the COMMISSION. This may include, but is not limited to, costs for services such as accounting, payroll, data processing, purchasing, personnel, and building use which may have been incurred by the GRANTEE.

36. Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses, (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indeminitor, its officers, officials, agents, employees, or volunteers. If the GRANTEE is a State agency, board, commission, or university of the State of Arizona, this paragraph shall not apply.

37. Should GRANTEE utilize a contractor(s) and subcontractor(s) the indemnification clause between GRANTEE and its contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the GRANTEE and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State. Insurance requirements for any contractor used by GRANTEE are incorporated herein by this reference and attached to this Agreement as Exhibit "A".

38. Restrictions and certifications regarding non-disclosure agreements and related matters

No GRANTEE under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

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I. In accepting this award, the GRANTEE--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

II. If the GRANTEE does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

39. GRANTEE agrees to notify the COMMISSION within ten (10) days in the event that the project official is replaced during the award period.

40. No rights or interest in this Agreement shall be assigned by GRANTEE without prior written approval of the COMMISSION.

41. GRANTEE will comply with the audit requirements of Uniform Guidance (2 CFR 200 subpart F 200.500) and provide the COMMISSION with the audit report and any findings within 90 days of receipt of such finding. If the report contains no findings, the GRANTEE must provide notification that the audit was completed. **Link:** *Audit Requirements for OJP Awards* at https://ojp.gov/funding/pdfs/AuditRequirementsPart200.pdf.

42. GRANTEE certifies that it will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") and the OJP Financial Guide. **Link:** *2 C.F.R Part 200 for OJP Awards* at https://ojp.gov/funding/Part200UniformRequirements.htm .

43. Compliance with general appropriations-law restrictions on the use of federal funds for awards made after FY 2018. GRANTEE or sub-grantee at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Should a question arise as to whether a particular use of federal funds by a GRANTEE would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP. Pertinent restrictions, including from various "general provisions" in the *Consolidated Appropriations Act, 2018* at https://ojp.gov/funding/Explore/FY22AppropriationsRestrictions.htm .

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44. GRANTEE agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or sub award to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express written approval of the Office of Justice Programs through the COMMISSION.

45. GRANTEE understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

46. GRANTEE agrees not to do business with any individual, agency, company or corporation listed in the Excluded Parties Listing Service. **Link:** *System for Award Management* at https://www.sam.gov/SAM/ .

47. GRANTEE agrees to ensure that, no later than the due date of the GRANTEE's first financial report after the award is made, GRANTEE and any subgrantees have a valid DUNS profile and active registration with the System for Award Management (SAM) database.

48. GRANTEE certifies that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

49. GRANTEE understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the OJP Training Guide Principles for Grantees and Subgrantees. **Link:** *OJP Training Guide Principles for Grantees and Subgrantees* at https://www.ojp.gov/funding/implement/training-guiding-principles-grantees-and-subgrantees.

50. GRANTEE agrees to cooperate and participate with any and all assessments, evaluation efforts or information and data collection requests, and acknowledges that the federal or state grantor agency has the right to obtain, reproduce, publish or use data provided under this award and may authorize others to receive and use such information.

51. GRANTEE shall provide the COMMISSION with a copy of all interim and final reports and proposed publications (including those prepared for conferences and other presentations) resulting from this Agreement. Submission of such materials must be prior to or simultaneous with their public release.

52. GRANTEE agrees that any publications (written, visual, or sound) excluding press releases and newsletters, whether published at the GRANTEE'S or COMMISSION'S expense, shall contain the following statement:

"This was supported by Award No. 15PBJA-21-GG-00265-JAGX awarded by the Department of Justice, Office of Justice Programs , Office of Justice Programs, U.S. Department of Justice. The opinions findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice."

53. GRANTEE shall comply with all federal, state, and local laws, rules, policies, or executive orders to prohibit discrimination.

54. GRANTEE agrees to comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 34 U.S.C. § 10228(c); the Victims of Crime Act of 1984, as amended, 34 U.S.C. § 20110(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 34 U.S.C. § 11182(b); and VAWA, as amended, 34 U.S.C. § 12291(b)(13), contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statues that prohibit discrimination in employment. An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEOP (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)). If in the three years prior to the date of the grant award a Federal or State Court or Federal or State administrative agency makes a finding of discrimination after a due process hearing against GRANTEE, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION.

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55. In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipient Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website: **Link:** *Limited English Proficiency A Federal Interagency Website* at http://www.LEP.gov.

56. GRANTEE agrees to comply with the applicable requirements of 28 CFR Part 38, the Department of Justice regulation governing "Partnerships with Faith - Based and Other Neighborhood Organizations"(the "PFNBO"). The PFNBO Regulation provides in part that Department of Justice financial assistance may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of Department of Justice financial assistance may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from GRANTEE must be voluntary. The PFNBO Regulation also makes clear that organizations participating in programs receiving financial assistance from the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. **Link:** *https://ojp.gov/funding/Explore/SolicitationRequirements/CivilRightsRequirements.htm#NDPFaith*.

57. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The GRANTEE or subgrantee at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, GRANTEES, or individuals defined (for purposes of this condition) as "employees" of the recipient or of any GRANTEE.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and GRANTEES related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

58. GRANTEE should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. As of June 2013 OJP has issued an advisory that grantees should consult local counsel in reviewing their employment practices. If warranted, grantees should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plan (EEOP). See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf.

59. GRANTEE assures that it will comply with all state and federal laws regarding privacy during the course of the award. All information relating to clients is to be treated with confidentiality in accordance with 42 USC section 3789g or 42 USC 14132(b)(3) that are applicable to the collection, disclosure, use and revelation of data information. GRANTEE further agrees to submit a privacy Certificate that is in accordance with requirements of 28 CFR Part 22 if applicable to the program.

60. GRANTEE agrees to formulate and keep on file an EEOP (if GRANTEE is required pursuant to 28 CFR 42 Subpart E). GRANTEE certifies that they have forwarded to the Office for Civil Rights, Office of Justice Programs the EEOP, or certifications that they have prepared and have on file an EEOP, or that they are exempt from EEOP requirements. Failure to comply may result in suspension of grant funds. Copies of all submissions such as certifications to or correspondence with the Office for Civil Rights, Office of Justice Programs regarding this requirement must be provided to the COMMISSION by GRANTEE. In the event a federal or state court or federal or state administrative agency makes an adverse finding of discrimination against GRANTEE after a due process hearing, on the ground of race, color, religion, national origin, or sex, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION (see 28 CFR 42.204(c), .205(c)(5)).

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61. GRANTEE agrees to participate in any required civil rights related training to ensure compliance with all federal and state civil rights laws. GRANTEE will inform the COMMISSION of the position responsible for civil rights compliance and will inform the COMMISSION of change in personnel responsible for civil rights compliance within ten days. **Link:** *https://www.azcjc.gov/Grants/Civil-Rights-Compliance*.

62. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees) GRANTEE must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant. GRANTEE also must inform its employees, in writing(and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

63. To support public safety and justice information sharing, GRANTEE, if a governmental subdivision, shall use the National Information Exchange Model (NIEM) specifications and guidelines for this grant. GRANTEE shall publish and make available without restrictions all schemas generated as a result of this grant to the component registry as specified in the guidelines. **Link:** *http://niem.github.io/reference/specifications/*.

64. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at *https://it.ojp.gov/gsp_grantcondition*.

Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

65. To avoid duplicating existing networks or IT systems in any initiatives for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless GRANTEE can demonstrate to the satisfaction of the COMMISSION that this requirement would not be cost beneficial or would impair the functionality of an existing or proposed IT system.

66. If GRANTEE is a governmental political subdivision, the GRANTEE should, to the extent possible and practical, share criminal justice information with other authorized criminal justice agencies. The process control number (PCN) shall be used in accordance with A.R.S. § 41-1750 when sharing data with other criminal justice agencies as electronic data systems are developed or improved.

67. If GRANTEE is a state agency and the award is for the development of information technology projects for more than $25,000, GRANTEE must complete a Project Investment Justification (PIJ) and submit the justification to the Arizona Department of Administration (ADOA), with a copy to the COMMISSION. GRANTEE agrees to submit required project status reports to ADOA by the due dates and submit copies to the COMMISSION.

If GRANTEE is not a state agency and the award is for the development of information technology projects, GRANTEE will follow local technology policies and guidelines.

68. GRANTEE must promptly refer to the COMMISSION any credible evidence that a principal, employee, agent, contractor, subgrantee, contractor, subcontractor, or other person has, in connection with funds under this award, has either 1) submitted a false claim that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct. The COMMISSION shall forward the referral to the Department of Justice, Office of the Inspector General.

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69. The COMMISSION encourages GRANTEE to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes caused by distracted drivers, including adopting and enforcing policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant. Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 2009).

70. GRANTEE certifies to comply with the Drug-Free Workplace Act of 1988, and implemented in 28 CFR Part 83, Subpart F, for grantees, as defined in 28 CFR, Part 83 Sections 83.620 and 83.650.

71. GRANTEE agrees to complete and keep on file, as appropriate, Immigration and Naturalization Form (I-9). This form is to be used by recipients to verify that persons are eligible to work in the United States. Additionally GRANTEE ensures compliance with A.R.S. § 41-4401.

72. GRANTEE acknowledges that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. GRANTEE warrants that they have registered with and participate with E-Verify. If the COMMISSION later determines that the GRANTEE has not complied with E-Verify, it will notify the non-compliant GRANTEE by certified mail of the determination and of the right to appeal the determination.

73. GRANTEE certifies that no federal funds will be paid, by or on behalf of, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and for the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal funds are paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal award, grant loan, or cooperative agreement, the GRANTEE will complete and submit to the COMMISSION Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

74. GRANTEE understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy at any level of government, without the express prior written approval of the Commission.

75. GRANTEE agrees that no funds provided, or personnel employed under this Agreement shall be in any way, or to any extent, engaged in conduct of political activities in violation of USC Title 5, Part II, Chapter 15, section 1502.

76. GRANTEE understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

77. GRANTEE understands and agrees that- (a) no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading and exchanging or pornography, and (b) nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

78. GRANTEE agrees to comply with all federal, state and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. Additional requirements may be found in Grant Agreement Continuation Sheet.

79. GRANTEE agrees that all gross income earned by the GRANTEE that is directly generated by a supported activity or earned as a result of this award during the period of performance shall be deemed program income. All program income must be accounted for and used for the purpose under the conditions applicable for the use of funds under this award, including the effective edition of the OJP Financial Guide and, as applicable in 2 C.F.R. Part 200 Uniform Requirements.

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80. This Agreement is subject to cancellation pursuant to the provision of A.R.S. § 38-511. This Agreement may also be cancelled at the COMMISSION'S discretion if not returned with authorized signatures to the COMMISSION within 90 days of commencement of the award.

81. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.

82. GRANTEE agrees to comply with all Special Condition(s) included with this Agreement on the Grant Agreement Continuation Sheet.

83. GRANTEE understands that grant funds may not be released until GRANTEE is compliant with all requirements of grant agreement.

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1. GRANTEE must verify the Agency Official, Financial Official, Project Official, and Authorized Official including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Request (GAR) must be submitted via the ACJC Grants Portal to document changes. In addition, the Agency Point of Contact for the grant record must assign the Financial Points of Contact and the Program Points of Contact in the Grants Portal prior to payments being made and update those contacts when necessary.

2. GRANTEE must submit the following documents within 45 days of award. Failure to submit the documents will result in a hold of grant funding. Documents must be submitted through the GRANTEE's Grants Portal "Attachment" section.

a. ACJC Subgrantee Self-Assessment Questionnaire can be completed in Grants portal at: https://grantsportal.azcjc.gov/

b. Benchmark Worksheet can be submitted through Grants Portal at: https://grantsportal.azcjc.gov/

c. For any agency that is eligible to receive income as a result of grant-funded activities, it must complete the ACJC program income worksheet on Grants Portal under Manage Personnel.

Before the COMMISSION may transmit Federal funds from FY 2021 Byrne/JAG grant the GRANTEE is required to submit the properly executed certification and assurance by the Chief Executive of the Applicant Government.

d. Certifications and Assurances by the Chief Executive of the Applicant Government. Failure to submit the certification will result in a hold of Federal funds. Certification can be obtained at: https://bja.ojp.gov/doc/fy-22-local-jag-ce-certification.pdf

3. GRANTEE agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

4. GRANTEE agrees to comply with all confidentiality requirements of 34 U.S.C. and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. GRANTEE further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.

5. GRANTEE ensures that it uses generally accepted laboratory practices and procedures as established by accrediting organizations or appropriated certifying bodies.

6. Absent prior express written approval from the COMMISSION, rates for any lodging charged to the grant may not exceed the posted GSA rate for the location. If the GRANTEE opts to obtain lodging at a higher rate, the cost differential, including associated taxes may not be charged to the award.

7. GRANTEE acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward; and (2) any rights of copyright to which a recipient or subrecipient purchases ownership with Federal support.

8. GRANTEE agrees to comply with the Government Performance and Results Act (Pub. L. No. 103-62) and the GRPA Modernization Act of 2010 (Pub. L. No. 111-352). Performance for current year award is measured by: 1) percent reduction in the average number of days from the submission of a sample to a forensic science laboratory to the delivery of test results to a requesting office or agency (calculated by reporting the average

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SPECIAL CONDITION(S) (Continued):

number of days to process a sample at the beginning of a grant period versus the average number of days to process a sample at the end of the grant period; 2) percent reduction in the number of backlogged forensic cases (calculated by reporting the number of backlogged forensic cases at the beginning of the award period versus the number of backlogged forensic cases at the end of the award period), if applicable to the grant; and 3) number of forensic science or medical examiner personnel who completed appropriate training or educational opportunities with current year Coverdell funds, if applicable to the award. GRANTEE is required to collect and report data relevant to these measures.

9. GRANTEE understands and agrees that program income earned during the award period and expenditures from program income must be reported. These funds are subject to audit. Program income that is earned during the final sixty (60) days of the award period, if appropriate, be obligated and expended for permissible uses during the sixty-day (60-day) period following the award period. Any program income that is earned, but not obligated or expended within sixty (60) days of the end of the award period must be returned to the COMMISSION.

10. GRANTEE agrees that within 120 days of award, for any law enforcement task force funded with these funds, the task force commander, agency executive, task force officers and other task force members of equivalent rank, will complete required online (internet-based) task force training to be provided free of charge through BJA's Center for Task Force Integrity and Leadership (https://www.ctfli.org). Task force members need only take the training once every four years. GRANTEE will compile and maintain a task force personnel roster and course completion certificates.

11. Quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (https://ojpsso.ojp.gov/) and ACJC Reporting tool website (https://acjcreporting.azcjc.gov/). For more detailed information on reporting and other JAG requirements, refer to the AJG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

12. Any law enforcement agency receiving direct or sub-awarded JAG funding must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

13. GRANTEE assures if they are a state agency that the State Information Technology Point of Contact receive written notification regarding any information technology project funded by this grant. GRANTEE agrees to keep on file documentation showing that it has met this requirement.

14. GRANTEE agrees and understands that funded activities may require the preparation of an Environmental Assessment (EA) as defined by the Council of Environmental Quality's Regulations for implementing the Procedural Provisions of the National Environmental Policy Act (NEPA), found at 40 CFR Part 1500.

15. GRANTEE agrees to comply with all federal, state and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. The GRANTEE agrees and understands that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The GRANTEE further understands and agrees to requirements for implementation of a Mitigation Plan, as detailed at https://www.bja.gov/Funding/nepa.html for programs relating to methamphetamine laboratory operations.

16. GRANTEE agrees that any information technology system developed or supported by funds will comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation be applicable. Should OJP determine 28 CFR Part 23 to be applicable, OJP may at its discretion, perform audits of the system, as per 28 CFR 23.20(g). Should any violation of 28 CFR Part 23 occur, GRANTEE may be fined as per 42 USC 3789g(c)-(d). GRANTEE may not satisfy such a fine with federal funds.

17. GRANTEE agrees that no JAG funds may be expended on unmanned aircraft, unmanned aircraft systems, or aerial vehicles (US, UAS, or UAV) without prior express written approval from Commission.

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SPECIAL CONDITION(S) (Continued):

18. If JAG Program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation (FBI)) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ DNA Backlog Reduction Program, available at www.nij.gov/topics/forensics/lab-operations/evidence-backlogs/Pages/backlogreduction-program.aspx.

19. Unreasonable restrictions on competition und the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any award.

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements - including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open cometition 'and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business' and taking "[a]ny arbitrary action in the procurement process") -no the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a 200.319(a) or as specifically authorized by USDOJ.

2. Rules of construction

a. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at the present) by or on behalf of the federal government- as an employee, contractor or subcontractor (at any tier), grant recipient or- subgrantee (at any tier), agenty, or otherwise- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work project, or activity (or to provide such goods or services) in future.

b. Nothing in this condition shall be understood to authorize or require any grantee, any subgrantee at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

20. GRANTEE must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm.

21. GRANTEE acknowledges the requirements of the award; remedies for non-compliance or for materially false statements. The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any or more of these award requirements-whether a condition set out in full below, a condition incorporated by the reference below, or a certification or assurance related to conduct during the award period may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold finds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18

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SPECIAL CONDITION(S) (Continued):

U.S.C 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or unenforceable, such provision shall be deemed severable from this award.

22. If the recipient is designated "high risk" by a federal grant-making agency currently or at any time during the period of performance under this award, the GRANTEE must disclose that fact and certain related information to the COMMISSION by e-mail at dcadmin@azcjc.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the GRANTEE'S past performance, or other programmatic or financial concerns with the GRANTEE. The GRANTEE'S disclosure must include the following: 1. The federal awarding agency that currently designates the GRANTEE high risk, 2. The date the GRANTEE was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and e-mail address), and 4. The reasons for the high-risk status as set out by the federal awarding agency.

23. Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the GRANTEE uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the GRANTEE must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS relevant "eligible records". In the event of minor and transitory non-compliance, the GRANTEE may submit evidence to demonstrate diligent monitoring of compliance with this condition. COMMISSION will give great weight to any such evidence in any express written determination regarding this condition.

24. GRANTEE acknowledges JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

25. GRANTEE must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The GRANTEE'S breach procedures must include a requirement to report actual or imminent break of PII to the COMMISSION no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

26. The GRANTEE warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). If a grantee uses any subcontractors in performance of this contract,subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A). A breach of this warranty shall be deemed a material breach of the contract subject to penalties up to and including termination of this contract. The Commission retains the legal right to inspect the papers of the grantee and its subcontractors who work on the contract to ensure that it or its subcontractors are complying with this warranty.

Authorized Official Initials: _____

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IN WITNESS WHEREOF, the parties have made and executed the Agreement the day and year first above written.

FOR GRANTEE:

Authorized Signatory Date

Printed Name & Title

Additional signature(s) if required by political subdivision Date

Printed Name & Title

ATTEST:

Clerk Date

Note: If applicable, the Agreement must be approved by the appropriate county supervisory board or municipal council and appropriate local counsel (i.e., county or city attorney). Furthermore, if applicable, resolutions and meeting minutes must be forwarded to the Commission with the signed Agreement.

Approved as to form and authority to enter into Agreement:

Legal Counsel for GRANTEE Date

Printed Name & Title

Statutory or other legal authority to enter into Agreement:

Appropriate A.R.S., Ordinance, or Charter Reference

FOR CRIMINAL JUSTICE COMMISSION:

Andrew T. LeFevre, Executive Director Date
Arizona Criminal Justice Commission

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***Insurance Requirements* for Governmental Parties to a Grant Agreement:**

None.

***Insurance Requirements* for Any Contractors Used by a Party to the Grant Agreement:**

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability - Occurrence Form**
Policy shall include bodily injury, property damage, and broad form contractual liability.

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Fire Legal Liability	$50,000
Each Occurrence	$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. **Business Automobile Liability**
Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

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3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$1,000,000
Disease - Each Employee	$1,000,000
Disease - Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to each contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation:

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the State of Arizona, within two (2) business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice shall be mailed, emailed, hand delivered or sent by facsimile transmission to (Enter Contracting Agency Representative's Name, Address, and Fax Number Here).

Acceptability of Insurers:

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage:

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

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Exhibit "A" Page 3

Subcontractors:

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

Approval and Modifications:

The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

Exceptions:

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

END OF GRANT AGREEMENT DOCUMENTS

DocuSign

Certificate Of Completion

Envelope Id: 970239CEFCFD407BA7C6F04477D3FC1C
Status: Sent
Subject: Please DocuSign: FY 2024 Drug Program Grant Agreement, DGVCC Grant Agreement Instructions
Source Envelope:
Document Pages: 23
Signatures: 0
Envelope Originator:
Certificate Pages: 5
Initials: 0
Siyeni Yitbarek
AutoNav: Enabled
syitbarek@azcjc.gov
EnvelopeId Stamping: Enabled
IP Address: 159.87.74.2
Time Zone: (UTC-07:00) Arizona

Record Tracking

Status: Original
5/22/2023 3:11:09 PM
Holder: Siyeni Yitbarek
syitbarek@azcjc.gov
Location: DocuSign
Security Appliance Status: Connected
Pool: StateLocal
Storage Appliance Status: Connected
Pool: Arizona Criminal Justice Commission
Location: DocuSign

Signer Events	Signature	Timestamp

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Andrew LeFevre
alefevre@azcjc.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp
Stacey Brechler-Knaggs sknaggs@flagstaffaz.gov Security Level: Email, Account Authentication (None)		Sent: 5/22/2023 3:20:15 PM Viewed: 5/22/2023 4:00:00 PM

Electronic Record and Signature Disclosure:
Accepted: 5/22/2023 4:00:00 PM
ID: ea6a92c5-dd6d-485b-b832-3da98725fa6e
Company Name: Arizona Criminal Justice Commission

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Stacey Brechler-Knaggs sknaggs@flagstaffaz.gov Security Level: Email, Account Authentication (None)		

Electronic Record and Signature Disclosure:
Accepted: 5/22/2023 4:00:00 PM
ID: ea6a92c5-dd6d-485b-b832-3da98725fa6e
Company Name: Arizona Criminal Justice Commission

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/22/2023 3:20:15 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Arizona Criminal Justice Commission (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Arizona Criminal Justice Commission:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: alefevre@azcjc.gov

To advise Arizona Criminal Justice Commission of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at alefevre@azcjc.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Arizona Criminal Justice Commission

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to alefevre@azcjc.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Arizona Criminal Justice Commission

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to alefevre@azcjc.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Arizona Criminal Justice Commission as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Arizona Criminal Justice Commission during the course of your relationship with Arizona Criminal Justice Commission.

9. G.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sam Beckett, Public Works Streets Section Director

Co-Submitter: Nathan Naliborski

Date: 06/27/2023

Meeting Date: 07/03/2023

TITLE:

Consideration and Approval of Contract: Approve the Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $183,380.00, plus additional fees and costs to purchase three 2024 Chevrolet pickup trucks for the Streets Section

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Courtesy Chevrolet in the amount of $183,380.00, plus additional fees and costs to purchase three 2024 Chevrolet pickup trucks for the Streets Section; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Streets Section has budgeted for the replacement of three heavy/light duty pickup trucks that have reached their end of life. Service and maintenance cost have driven the decision for these vehicles to be prioritized by Streets and the Fleet Management Committee. These three vehicles serve in various capacities such as light medium duty equipment transport, signs and marking maintenance (paint transport), fuel haulage, traffic control, and more recently disaster response with sandbag transportation, along with skid steer & toolcat transport to reduce the need of larger commercial vehicles to be utilized. These vehicles are now slated to be replaced and have been held in the fleet long past the recommended standards set forth by the fleet management committee. Street would like to replace these trucks with three Chevy 3500HD pickup trucks reducing two trucks from 4500HD down to 3500HD to better meet the operational needs and right size the fleet.

Financial Impact:

These vehicles have been budgeted for replacement in FY2023-24 are funded with Highway User Revenue (HURF) funds in account 040-06-161-0614-6-4401 and 040-06-161-0613-6-4401 for total budget of $330,000 for these replacements.

Policy Impact:

N/A

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Carbon Neutrality Plan

Streets in partnership with Fleet has worked to reduce the load rating on 2 of the 3 trucks being replaced in effort to right size our city fleet and costs. Two of the three trucks will be ordered with diesel motors equipped with the latest emissions including diesel particulate filtration that greatly reduces carbon output, compared to the 25-year-old vehicles being replaced. For even more carbon reduction, Streets was able to spec one of the trucks with a gasoline motor as it better meets the hauling capacity and transport needs of the signs and markings programs and reduce overall costs.

Has There Been Previous Council Decision on This:

N/A

Background/History:

The Procurement department utilized State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. BPM004157 that resulted in Contract # CTR059315 with Courtesy Chevrolet.

Attachments:

Contract
Exhibit A - Quote
Exhibit B.1
Exhibit B.2
Exhibit B.3

COOPERATIVE PURCHASE CONTRACT
Contract No. 2023-145

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 20_____by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and Courtesy Chevrolet, a State of Arizona Corporation ("Contractor").

RECITALS:

A. Contractor is a fully authorized vendor of Chevrolet vehicles;

B. The State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. BPM004157 that resulted in Contract No. CTR059315 with Contractor ("Agency Contract"); and

C. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

Three Chevrolet 3500 Silverado Trucks for Streets

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Purchase Order(s) submitted to Contractor or *Exhibit A* attached hereto and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided for **one hundred eighty-three thousand, three hundred eighty dollars and zero cents ($183,380.00) in addition to other fees and taxes**; made in accordance with the price list and terms set forth in the Agency Contract.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in *Exhibit B* attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract, including, specifically changes in price for the materials.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

Courtesy Chevrolet:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A
QUOTE FROM COURTESY CHEVROLET (attached)

EXHIBIT B
AGENCY CONTRACT

1. March 17, 2022, Agency Contract Award Request for Proposal Solicitation No. BPM004157
2. Contract Amendment Summary
3. Courtesy Chevrolet Pricing

COURTESY CHEVROLET

5/30/2023

STATE OF ARIZONA
VEHICLE QUOTE
STATE CONTRACT# CTR059315

VEHICLE	**2024 CHEVROLET 3500 SILVERADO CREW CAB WT 4X4 DRW BED DELETE PER ATTACHED SPECS**	$ 49,354.25
	DELIVERY TO FLAGSTAFF	$ 250.00
	TWO ADDITIONAL FOBS	$ 325.00

TOTAL	$ 49,929.25
SALES TAX	$ 4,179.02
TIRE TAX	$ 5.00
GRAND TOTAL	$ 54,113.27

ORDERED UNIT
120-150 DAYS ARO

Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

Selected Model and Options

MODEL

CODE	MODEL	MSRP
CK30943	2024 Chevrolet Silverado 3500HD 4WD Crew Cab 172" Work Truck	$52,300.00

COLORS

CODE	DESCRIPTION
GAZ	Summit White

OPTIONS

CODE	DESCRIPTION	MSRP
___	Capped Fuel Fill (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine or (ZW9) pickup bed delete.)	Inc.
1WT	Work Truck Preferred Equipment Group includes standard equipment	$0.00
9J4	Bumper, rear, delete (Included and only available with (ZW9) pickup bed delete.)	Inc.
AKO	Glass, deep-tinted (Included with (PCV) WT Convenience Package.)	Inc.
AZ3	Seats, front 40/20/40 split-bench with covered armrest storage and under-seat storage (lockable) (STD)	$0.00
C49	Defogger, rear-window electric (Included with (PCV) WT Convenience Package.)	Inc.
DBG	Mirrors, outside power-adjustable vertical trailering with heated upper glass lower convex mirrors, integrated turn signals, manual folding/extending (extends 3.31" [84.25mm]) (Included and only available with (PCV) WT Convenience Package or (ZLQ) WT Fleet Convenience Package.)	Inc.
DZW	Dual Rear Wheels includes LED hip marker lights (Requires long bed model and (G9Y) 14,000 lbs. (6350 kg) GVWR.) *Upon selection of this option the base price will change*	$0.00
FE9	Emissions, Federal requirements	$0.00
G9Y	GVWR, 14,000 lbs. (6350 kg) with dual rear wheels (Included and only available with dual rear wheels and long bed model.)	Inc.
GAZ	Summit White	$0.00
GT4	Rear axle, 3.73 ratio (STD) (Requires (L8T) 6.6L V8 gas engine. Not available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	$0.00
H2G	Jet Black, Vinyl seat trim	$0.00
IOR	Audio system, Chevrolet Infotainment 3 system, 7" diagonal HD color touchscreen, AM/FM stereo Bluetooth audio streaming for 2 active devices, voice command pass-through to phone, Wireless Apple CarPlay and Wireless Android Auto compatibility (STD)	$0.00

This document contains information considered Confidential between GM and its Clients uniquely. The information provided is not intended for public disclosure. Prices, specifications, and availability are subject to change without notice, and do not include certain fees, taxes and charges that may be required by law or vary by manufacturer or region. Performance figures are guidelines only, and actual performance may vary. Photos may not represent actual vehicles or exact configurations. Content based on report preparer's input is subject to the accuracy of the input provided.

Data Version: 19546. Data Updated: May 29, 2023 6:36:00 PM PDT.

Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

OPTIONS

CODE	DESCRIPTION	MSRP
JL1	Trailer brake controller, integrated (Requires (ZLQ) WT Fleet Convenience Package, (PCV) WT Convenience Package or (L5P) Duramax 6.6L Turbo-Diesel V8 engine. Included with (CMT) Gooseneck / 5th Wheel Package.)	$275.00
K34	Cruise control, electronic with set and resume speed, steering wheel-mounted (Included with (PCV) WT Convenience Package.)	Inc.
K4Z	Battery, auxiliary, 730 cold-cranking amps/70 Amp-hr (Requires (L8T) 6.6L V8 gas engine and either (KW5) 220-amp alternator or (KHF) dual alternators. Not available with (KW7) 170-amp alternator.)	$135.00
KW5	Alternator, 220 amps (Included with (L5P) Duramax 6.6L Turbo-Diesel V8 engine or (VYU) Snow Plow Prep/Camper Package. Free flow on (L8T) 6.6L V8 gas engine.)	$150.00
L8T	Engine, 6.6L V8 with Direct Injection and Variable Valve Timing, gasoline (401 hp [299 kW] @ 5200 rpm, 464 lb-ft of torque [629 N-m] @ 4000 rpm) (STD)	$0.00
MKM	Transmission, Allison 10-speed automatic (STD) (Standard with (L8T) 6.6L V8 gas engine.)	$0.00
NZZ	Skid Plates protect the oil pan, front axle and transfer case (Included with (Z71) Z71 Off-Road Package or (VYU) Snow Plow Prep/Camper Package.)	$150.00
P03	Wheel trim, painted center caps (Requires dual rear wheels.)	Inc.
PCV	WT Convenience Package includes (QT5) EZ Lift power lock and release tailgate, (AKO) tinted windows, (C49) rear-window defogger, (K34) cruise control, (DBG) power trailer mirrors with heated upper glass and manual extending/folding (Not available with (ZLQ) WT Fleet Convenience Package. Required on Regular Cab models with (L5P) Duramax 6.6L Turbo-Diesel V8 engine. (DBG) trailering mirrors may be upgraded to (DWI) trailering mirrors or (DLN) mirrors. Not available with CC30943 or CC30953 dual rear wheel models with (ZW9) pickup bed delete.)	$860.00
PYW	Wheels, 17" (43.2 cm) painted steel (Requires dual rear wheels.)	Inc.
QZT	Tires, LT235/80R17E all-terrain, blackwall (Requires dual rear wheels.)	$0.00
SFW	Back-up alarm calibration This calibration will allow installation of an aftermarket back-up alarm by disabling rear perimeter lighting (Included with (ZW9) pickup bed delete. Not available with (8S3) back-up alarm or (UY2) trailer wire provisions.)	Inc.
U01	Lamps, Smoked Amber roof marker, (LED) (Included with (ANQ) Alaskan Snow Plow Special Edition. Standard with dual rear wheels. Not available with (YF5) California state emissions requirements on single rear wheels.)	Inc.
UJM	Tire Pressure Monitoring System with Tire Fill Alert (does not apply to spare tire) (Standard on dual rear wheel models only.)	Inc.
ZW9	Pickup bed, delete includes capped fuel fill, (SFW) Back-up alarm calibration, (9J4) rear bumper delete, (9L3) spare tire delete and spare tire carrier delete. (Requires long bed model and 17" or 18" wheels.) *CREDIT*	($1,155.00)

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Data Version: 19546. Data Updated: May 29, 2023 6:36:00 PM PDT.

Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

OPTIONS

CODE	DESCRIPTION	MSRP
ZZT	Tire, spare LT235/80R17E all-terrain (Included and only available with (QZT) LT235/80R17E all-terrain, blackwall tires with (E63) Durabed, pickup bed dual rear wheel models. Available to order with (ZW9) pickup bed delete with (QZT) LT235/80R17E all-terrain, blackwall tires with dual rear wheel models.)	$380.00
	Options Total	**$795.00**

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Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

Price Summary

PRICE SUMMARY

	MSRP
Base Price	$52,300.00
Total Options	$795.00
Vehicle Subtotal	$53,095.00
Destination Charge	$1,895.00
Grand Total	**$54,990.00**

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COURTESY CHEVROLET

5/30/2023

STATE OF ARIZONA
VEHICLE QUOTE
STATE CONTRACT# CTR059315

DIESEL

VEHICLE	**2024 CHEVROLET 3500 SILVERADO CREW CAB WT 4X4 DRW BED DELETE PER ATTACHED SPECS**	**$**	57,730.80
	DELIVERY TO FLAGSTAFF	**$**	250.00
	TWO ADDITIONAL FOBS	**$**	325.00
TOTAL		**$**	58,305.80
SALES TAX		$	4,874.27
TIRE TAX		$	5.00
GRAND TOTAL		$	63,185.07

This vehicle X 2

ORDERED UNIT
120-150 DAYS ARO

Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

Selected Model and Options

MODEL

CODE	MODEL	MSRP
CK30943	2024 Chevrolet Silverado 3500HD 4WD Crew Cab 172" Work Truck	$52,300.00

COLORS

CODE	DESCRIPTION
GAZ	Summit White

OPTIONS

CODE	DESCRIPTION	MSRP
——	Battery, heavy-duty dual 730 cold-cranking amps/70 Amp-hr maintenance-free with rundown protection and retained accessory power (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	Inc.
——	Capped Fuel Fill (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine or (ZW9) pickup bed delete.)	Inc.
1WT	Work Truck Preferred Equipment Group includes standard equipment	$0.00
9J4	Bumper, rear, delete (Included and only available with (ZW9) pickup bed delete.)	Inc.
AKO	Glass, deep-tinted (Included with (PCV) WT Convenience Package.)	Inc.
AZ3	Seats, front 40/20/40 split-bench with covered armrest storage and under-seat storage (lockable) (STD)	$0.00
BHP	Winter Grille Cover (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	Inc.
C49	Defogger, rear-window electric (Included with (PCV) WT Convenience Package.)	Inc.
DBG	Mirrors, outside power-adjustable vertical trailering with heated upper glass lower convex mirrors, integrated turn signals, manual folding/extending (extends 3.31" [84.25mm]) (Included and only available with (PCV) WT Convenience Package or (ZLQ) WT Fleet Convenience Package.)	Inc.
DZW	Dual Rear Wheels includes LED hip marker lights (Requires long bed model and (G9Y) 14,000 lbs. (6350 kg) GVWR.) *Upon selection of this option the base price will change*	$0.00
FE9	Emissions, Federal requirements	$0.00
G9Y	GVWR, 14,000 lbs. (6350 kg) with dual rear wheels (Included and only available with dual rear wheels and long bed model.)	Inc.
GAZ	Summit White	$0.00
GU6	Rear axle, 3.42 ratio (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	Inc.

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Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

OPTIONS

CODE	DESCRIPTION	MSRP
H2G	Jet Black, Vinyl seat trim	$0.00
IOR	Audio system, Chevrolet Infotainment 3 system, 7" diagonal HD color touchscreen, AM/FM stereo Bluetooth audio streaming for 2 active devices, voice command pass-through to phone, Wireless Apple CarPlay and Wireless Android Auto compatibility (STD)	$0.00
JL1	Trailer brake controller, integrated (Requires (ZLQ) WT Fleet Convenience Package, (PCV) WT Convenience Package or (L5P) Duramax 6.6L Turbo-Diesel V8 engine. Included with (CMT) Gooseneck / 5th Wheel Package.)	$275.00
K05	Engine block heater (Included with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	Inc.
K34	Cruise control, electronic with set and resume speed, steering wheel-mounted (Included with (PCV) WT Convenience Package.)	Inc.
K40	Exhaust brake (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	Inc.
KW5	Alternator, 220 amps (Included with (L5P) Duramax 6.6L Turbo-Diesel V8 engine or (VYU) Snow Plow Prep/Camper Package. Free flow on (L8T) 6.6L V8 gas engine.)	Inc.
L5P	Engine, Duramax 6.6L Turbo-Diesel V8, B20-Diesel compatible (470 hp [350.5 kW] @ 2800 rpm, 975 lb-ft of torque [1322 Nm] @ 1600 rpm) (Requires (JL1) trailer brake controller. Regular Cab model requires (PCV) WT Convenience Package or (ZLQ) WT Fleet Convenience Package.)	$9,490.00
MGM	Transmission, Allison 10-speed automatic (Included and only available with (L5P) Duramax 6.6L Turbo-Diesel V8 engine. Not available with (PTO) Power Take-Off.)	Inc.
NZZ	Skid Plates protect the oil pan, front axle and transfer case (Included with (Z71) Z71 Off-Road Package or (VYU) Snow Plow Prep/Camper Package.)	$150.00
P03	Wheel trim, painted center caps (Requires dual rear wheels.)	Inc.
PCV	WT Convenience Package includes (QT5) EZ Lift power lock and release tailgate, (AKO) tinted windows, (C49) rear-window defogger, (K34) cruise control, (DBG) power trailer mirrors with heated upper glass and manual extending/folding (Not available with (ZLQ) WT Fleet Convenience Package. Required on Regular Cab models with (L5P) Duramax 6.6L Turbo-Diesel V8 engine. (DBG) trailering mirrors may be upgraded to (DWI) trailering mirrors or (DLN) mirrors. Not available with CC30943 or CC30953 dual rear wheel models with (ZW9) pickup bed delete.)	$860.00
PYW	Wheels, 17" (43.2 cm) painted steel (Requires dual rear wheels.)	Inc.
QZT	Tires, LT235/80R17E all-terrain, blackwall (Requires dual rear wheels.)	$0.00
SFW	Back-up alarm calibration This calibration will allow installation of an aftermarket back-up alarm by disabling rear perimeter lighting (Included with (ZW9) pickup bed delete. Not available with (8S3) back-up alarm or (UY2) trailer wire provisions.)	Inc.
U01	Lamps, Smoked Amber roof marker, (LED) (Included with (ANQ) Alaskan Snow Plow Special Edition. Standard with dual rear wheels. Not available with (YF5) California state emissions requirements on single rear wheels.)	Inc.

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Courtesy Chevrolet
Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

OPTIONS

CODE	DESCRIPTION	MSRP
UJM	Tire Pressure Monitoring System with Tire Fill Alert (does not apply to spare tire) (Standard on dual rear wheel models only.)	Inc.
ZW9	Pickup bed, delete includes capped fuel fill, (SFW) Back-up alarm calibration, (9J4) rear bumper delete, (9L3) spare tire delete and spare tire carrier delete. (Requires long bed model and 17" or 18" wheels.) *CREDIT*	($1,155.00)
ZZT	Tire, spare LT235/80R17E all-terrain (Included and only available with (QZT) LT235/80R17E all-terrain, blackwall tires with (E63) Durabed, pickup bed dual rear wheel models. Available to order with (ZW9) pickup bed delete with (QZT) LT235/80R17E all-terrain, blackwall tires with dual rear wheel models.)	$380.00
	Options Total	**$10,000.00**

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Courtesy Chevrolet

Berney Kullos | 6023632884 | bkullos@houseofcourtesy.com

Vehicle: [Fleet] 2024 Chevrolet Silverado 3500HD (CK30943) 4WD Crew Cab 172" Work Truck (✓ Complete)

Price Summary

PRICE SUMMARY

	MSRP
Base Price	$52,300.00
Total Options	$10,000.00
Vehicle Subtotal	$62,300.00
Destination Charge	$1,895.00
Grand Total	**$64,195.00**

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Vehicle 1 - $54,990.00
Vehicle 2 - $64,195.00
Vehicle 3 - $64,195.00
Total = $183,380.00

DocuSign Envelope ID: 7AE6D603-F496-4243-9920-A7948B4C771C

ADOT
Procurement

OFFER AND ACCEPTANCE

OFFER

TO THE STATE OF ARIZONA:

The undersigned hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Courtesy Chevrolet Offeror (Company) Name	Signature of Person Authorized to Sign Offer Joe Pfeffer January 11, 2022
1233 East Camelback Road Address	Printed Name Date
Phoenix, AZ 85014 City State Zip	Fleet Manager Title
jpfeffer@houseofcourtesy.com Email Address	602-279-3232 Phone Number
www.courtesyfleet.com Company Email Address	602-264-9230 Fax Number

By signature in the Offer section above, the Offeror certifies that the submission of the Offer did not involve collusion or other anticompetitive practices.

ACCEPTANCE OF OFFER (FOR DEPARTMENT USE ONLY)

The Contractor is now bound to perform based upon Contract Number CTR059315 including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the state.

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this 17th day of March 2022

DocuSigned by:
Pamela Wade
Procurement Officer

3/10/2022
Awarded Date

Procurement

STATE OF ARIZONA
ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson St., Ste. A
Phoenix, AZ 85007

REQUEST FOR PROPOSAL

SOLICITATION NUMBER: BPM004157

DESCRIPTION: New Vehicle Purchases

QUESTIONS: Inquiries regarding the solicitation are to be submitted online through the State's e-Procurement system, Arizona Procurement Portal (APP) (https://app.az.gov/) using the Discussion Forum tab.

OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.

Thomas Kornell
Procurement Officer
Phone: 602-712-8520
Email: Tkornell@azdot.gov

This solicitation is issued in accordance with A.R.S. §41-2534 and A.A.C. R2-7-C301 et seq., Competitive Sealed Proposals.

"An Equal Opportunity Agency"

The Arizona Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Americans with Disabilities Act (ADA), hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration for an award.

Persons that require a reasonable accommodation based on language or disability should contact ADOT's Procurement Office by phone (602) 712-2089. Requests should be made as early as possible to ensure the State has an opportunity to address the accommodation.

Las personas que requieran asistencia (dentro de lo razonable) ya sea por el idioma o discapacidad deben ponerse en contacto con ADOT (602) 712-2089.

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1. Statement of Need

1.1. Pursuant to the Arizona Procurement Code, A.R.S. §41-2501 et seq., the State of Arizona Department of Transportation (Department), has a requirement for New Vehicle Purchase.

2. Introduction and Background

2.1 The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures.

2.2 Background: The State and its Eligible Agencies currently spend an estimated twenty-one million dollars in the purchase of new vehicles annually.

2.3 The following are the Three Categories covered in this Scope of Work:

- **Category One: Phase One (1) Vehicle Purchases**
- **Category Two: Phase Two (2) Vehicle Purchases**
- **Category Three: FTA Funded Vehicles**

3 General Requirements

3.1 Vehicles shall be new and supplied with all equipment and accessories indicated as standard equipment in the manufacturer's published literature (or website). Optional equipment necessary to meet the minimum requirements shall be included.

3.2 All vehicles ordered through Phase 1 (off the line) shall be Manufacturer's current year models in production throughout the term of this contract and shall be serviced completely by the vendor before delivery and ready in all respects for use. For the initial contract period; vehicles shall be new model year 2022 or greater.

3.3 Vehicles ordered through Phase 2 (on the lot) shall have less than 100 original odometer miles and be new (have never been previously owned) unless pre-approved in writing by the Eligible Agency.

3.4 All vehicles shall meet requirements of applicable Arizona Motor Vehicle laws and all other applicable Federal Motor Vehicle Safety Standards (including the Federal Bridge Formula), whether or not such requirements are specified in detail.

3.5 For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation.

3.6 Delivery location shall be identified on the issuing agency purchase order. Deliveries shall be made within 120 days of receipt of purchase orders, unless factory delays make this impossible. Dealer shall notify the ordering agency of such delays along with a revised delivery estimate from the factory immediately after it becomes known. If the manufacturer has a website available to check order status, this information will be shown in space provided on Offer Response Form.

3.7 All deliveries shall be made Monday through Friday from 8:00 A.M. to 2:00 P.M. The Contractor shall be required to give the using agency a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and number of units to be delivered.

3.8 All vehicles shall be delivered with four (4) entrance tools and a full tank(s) of fuel, less delivery fuel.

3.9 The following documents shall be provided upon delivery of the vehicle(s):

3.9.1 M.S.O. (Manufacturer Statement of Origin) that includes the odometer statement
3.9.2 Warranty Document
3.9.3 Manufacturers unaltered invoice
3.9.4 Delayed warranty / in service start request form (if requested by ordering entity)
3.9.5 Level 1 Inspection if applicable, completed before delivery

3.10 For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract.

4 Specific Requirements

4.1 The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency.

4.2 As new model year vehicles become available, vendor shall submit pricing at either the same rate as the previous model, or submit a request for an increase or decrease based only on the manufacturer's increase or decrease. Documentation must be submitted to the Procurement Officer within 30 days of the effective date of change. New model year vehicles cannot be offered without approval from the Procurement Officer.

4.3 The following fuel types are allowable under this contract are to include but are not limited too.

4.3.1 Flexible Fuel Vehicles (FFV) also called Ethanol or E85
4.3.2 Diesel

4.3.3 Gasoline
4.3.4 Compressed Natural Gas (CNG): CNG systems must be O.E.M. or O.E.M. approved
4.3.5 Hybrid-Electric Vehicles (HEV)
4.3.6 Plug-in Hybrid Electric Vehicles (PHEV)
4.3.7 Electric Vehicles (EV) also called Battery Electric Vehicles (BEV)
4.3.8 Fuel Cell Vehicles (FCV)

4.4 Vehicle Up-fit / Modifications

4.4.1 The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency.

4.4.2 The Eligible Agency will supply all up-fit/modification requests to the Contractor. The Contractor shall identify any conditions that apply to the up-fit/modification on a quotation to the Eligible Agency for review before any work commences.

4.5 Minimum Vehicle Requirements: All prices shall include the following equipment:

4.5.1 All standard factory equipment

4.5.2 Automatic transmission [maximum towing/payload capacity shall be provided upon request)

4.5.3 Bluetooth capabilities

4.5.4 AM/FM radio

4.5.5 Cruise Control

4.5.6 Power Door Locks/Power Windows
4.5.7 Power Mirrors when available

4.5.8 Four (4) entrance tools (in any combination allowed; keyless entry remotes, integrated or smart keys, standard cut keys) per vehicle.
a. Type of keys to be provided shall be indicated on quote.

4.5.9 Air conditioning
a. Rear air conditioning on all vehicles, when available

4.5.10 Cloth seats

4.5.11 Rear view mirrors including on driver and passenger doors
a. FOR TRUCKS: Rear view mirrors on driver front and passenger front doors, largest available without upgrading vehicle options package.
b. Back up Camera

4.5.12 Spare tire
a. Full size standard steel wheel with matching Original Equipment Manufacturer spare tire identical to standard equipment with the trim level of the delivered vehicle.
b. If full spare is not available due to space or manufacturer standards, an alternative shall be provided and noted on quote provided.

4.5.13 Floor Mats

a. O.E.M. floor mat sets installed in all seating rows where the vehicle comes with carpeted floors.

b. Fixed driver floor mat

4.5.14 Arizona legal tinted glass

4.5.15 Minimum of 2 USB charging Ports

4.6 Specific Requirements for Trucks (when available)

4.6.1 Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW.

4.6.2 Skid plate package and anti-slip differential for four-wheel drive vehicles

4.6.3 Front tow hooks

5 Contractor's Responsibilities

Contractor shall be responsible for processing the registration, licensing, title and plating of all new vehicles ordered only if requested by the Eligible Agency.

6 Department's Responsibilities

The Eligible Agencies will provide final acceptance and approval of any equipment and services delivered

SPECIAL TERMS AND CONDITIONS

1. CONTRACT TERM

The term of any resultant contract shall commence on the effective day of award and shall continue for a period of twelve months (12) thereafter, unless terminated, cancelled or extended as otherwise provided herein.

2. CONTRACT EXTENSION

By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months.

3. ELIGIBLE AGENCIES

This contract shall be for the use of all State of Arizona departments, agencies and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in any resultant contract, a university, political subdivision or nonprofit educational or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes §41-2632.

4. NON-EXCLUSIVE CONTRACT

This contract shall be for the sole convenience of the Department. The Department reserves the right to obtain like goods or services from another source when necessary. The Off-Contract Purchase Authorization and subsequent procurement shall be consistent with the Arizona Procurement Code.

5. ORDERING PROCESS

The Department shall issue a purchase order to the Contractor. Each purchase order must cite the contract number. This purchase order shall be the only document required for the Department to order and the Contractor to deliver the material and/or service.

Any attempts to represent any material and/or service not specifically awarded as being under contract is a breach of the contract and a violation of the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of but not limited to contract cancellation, suspension and/or debarment of the Contractor.

6. SHIPPING TERMS

Delivery shall be F.O.B. Destination to the location designated herein. Contractor shall retain title and control of all goods until they are delivered. All risk of transportation and related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The Department will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection.

7. DELIVERY

Contract prices shown for each vehicle include delivery cost within a sixty (60) mile radius of Phoenix.

For the purpose of this contract, the address used for mapping the radius within Phoenix will be as follows:

Equipment services shop/ADOT
2225 S 22nd Ave, Phoenix, AZ 85009

Delivery costs for each county outside of the Phoenix area shall be indicated on Offer Response form.

This will be an added cost to the contract price.

Deliveries shall be completed In accordance with the requirements of the contract.
Delivery of the product does not constitute acceptance.

8. INSPECTION AND ACCEPTANCE

Each item delivered shall be subject to a complete inspection by the Department within 10 days after delivery. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.

If the delivered product is not accepted and returned for corrective action, an additional fifteen (15) calendar days shall be allowed for inspection of the corrected or replacement product.

The Contractor shall be responsible for the transport of the material to and from the Department for the correction of items or workmanship not in compliance with the specifications.

Product returned for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted.

9. INVOICING and PAYMENT

Contractor shall submit all billing notices or invoices to the Eligible Agency or Co-Op Buyer at the address Indicated on the applicable Order document.

Separate invoices are required for each shipment of product or delivery of service and shall include at a minimum:

- Department Location's Name and Address
- Vendor Name, Remit to Address and Contact Information
- Contract Number
- Purchase Order Number
- Invoice Number and Date
- Date the items were shipped to the Department
- Applicable payment terms
- Contract Line Item Number
- Line Item Description or Item or Service
- Quantity Purchased

- Line Item Unit of Measure
- Price per Unit and Total per Unit
- Catalog or Other Discount (if applicable)
- Net Unit Price and Total per Unit (if applicable)
- Applicable taxes (as a separate invoice line item)
- Applicable Shipping/Freight Charges etc. (as a separate invoice line item) Materials only.
- Total Invoice Amount Due

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the Department or the State for late or finance charges.

The Department will make every effort to process payment for the purchase of product within thirty (30) calendar days after the Department has conducted the necessary reviews, inspections and acceptance as described herein.

The department acceptance date will be the valid date for starting the thirty (30) calendar day payment period.

Payment due dates, including discount periods, will be computed from the date of acceptance or date of correct invoice (whichever is later) to the date the Department's warrant is mailed.

10. ESTIMATED USAGE

The Department anticipates considerable usage under this contract. The Department reserves the right to increase or decrease actual quantities ordered as circumstances may require. No guarantees are made concerning actual purchases under this contract.

11. PRICING

1 Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.

a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.
b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.
f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.

g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order.

2 CONTRACTOR'S BEST PRICING: Supplier warrants that, for the term of the Contract, the prices and discounts set out in the Pricing Documents, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent items of equipment and materials.

2.1 That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances.

2.2 If Contractor's Best Pricing for equivalent items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.

2.3 For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If it was before, then Supplier agrees to charge at less than the Contract Pricing until the extended difference that would have been realized (i.e., if the Contractor's Best Pricing had been applied when it should have been) has been settled.

3 PRICING-ALL-INCLUSIVE: Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's offer as accepted by State. Details of service not explicitly stated in the Scope of Work or in Contractor's Offer, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the Contract are included in the pricing provided.

4 LARGE VOLUME DISCOUNT PRICING: An Eligible Agency may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible Agency for large volume purchases.

5 A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice through a written contract amendment.

12. PRICE INCREASE

The Department will review **fully documented** requests for price increases for any contract which will or has been in effect for twelve (12) months. The request shall be submitted no less than 60 days prior to the contract renewal date. The Contractor shall provide fully documented information which supports the price increase request. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be

clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment request prior to the time of contract extension will be a factor in the extension review process. The Department will determine whether the requested price increase or an alternate option, is in the best interest of the State. All pricing should reflect the minimum percentage of MSRP.

13. SAFETY STANDARDS

Items supplied under this contract shall comply with all current applicable safety standards and regulations including the Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards.

14. WARRANTY

The Contractor warrants:

1. That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.

2 At a minimum all equipment supplied under these specifications shall be fully warranted by the vehicle manufacturer against mechanical and electrical defects for a minimum period of thirty-six (36) months from the date vehicle is placed in service.

3 This warranty shall cover such items as actual repair labor, parts, and shipping charges to and from the nearest service facility or other designated repair depot.

4 Any defects of design, workmanship or material, shall be fully corrected by the vendor without cost to the state agency or political subdivision.

5 The written warranty shall be included with the delivered vehicles to the Eligible Agency. The warranty terms shall be stated on Attachment 3-A, where indicated. Failure to provide this general information may result in the offer being rejected.

6 Hybrid / Electric Vehicle Warranty: Hybrid-related components including catalytic convertor, electronic control unit, onboard emissions diagnostic device, high voltage battery, transmission, DC/DC convertor for hybrid vehicles shall be covered for 8 years/100,000 miles, battery for electric vehicles shall be 8/years/100,000 miles and bidder shall indicate limitation of warranty due to voltage and amps. The warranty terms shall be stated where indicated on Attachment 3-A. Failure to provide this general information may result in the bid being rejected.

15. CURRENT PRODUCTS

All products supplied under this contract shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in the contract.

16. PRODUCT DISCONTINUANCE

In the event that a product or model is discontinued by the manufacturer, the Department at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request authorization to substitute a new product or model and provide the following:

1. A formal announcement from the manufacturer that the product or model has been discontinued.

2. Documentation from the manufacturer that names the replacement product or model.

3. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation.

4. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.

5. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.

17. CONTRACT ADMINISTRATION

The Contractor shall contact the assigned Procurement Officer for guidance or direction in matters of contract interpretation or questions regarding the terms, conditions or scope of the contract.

18. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called "Notices"), shall be in writing and shall be sent by certified United States mail, return receipt requested, or by any other method that provides evidence of receipt, addressed to the party or parties to receive such notice as follows:

A. If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1739 W. Jackson Street, MD 100P
Phoenix, Arizona 85007-3276

B. If intended for the Contractor, to the address as identified in the Contractor's electronic vendor profile. Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Transportation, Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

19. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

This contract may be cancelled if Contractor or any subcontractors or others in the employ or under the supervision of the Contractor or subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property.

Further, if the Contractor or any subcontractors or others in the employ or under the supervision of the Contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. § 13-1502, "Criminal trespass in the third degree; classification."

20. INDEMNIFICATION CLAUSE

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

21. INSURANCE REQUIREMENTS

21.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

21.2 The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way

warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

21.3 Minimum Scope and Limits of Insurance Contractor shall provide coverage with limits of liability not less than those stated below.

21.3.1 Commercial General Liability (CGL) – Occurrence Form

The Contractor shall furnish Certificate(s) of Insurance inclusive of the following requirements to the Department. Certificate(s) shall be received within 10 calendar days of notification of contract award by the Procurement Officer.

Policy shall include bodily injury, property damage, and broad form

contractual liability coverage.

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Damage to Rented Premises $50,000
- Each Occurrence $1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

21.3.2 Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- Combined Single Limit (CSL) $1,000,000

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving

automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

21.3.3 Workers' Compensation and Employers' Liability

• Workers' Compensation	Statutory
• Employers' Liability	
o Each Accident	$1,000,000
o Disease – Each Employee	$1,000,000
o Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

21.4 Additional Insurance Requirements The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

21.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

21.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

21.5 Notice of Cancellation Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

21.6 Acceptability of Insurers Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of

not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

21.7 Verification of Coverage Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

21.7.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

21.7.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

21.7.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

21.8 Subcontractors Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

21.9 Approval and Modifications the Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

21.10 Exceptions In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

22. USAGE REPORT

The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

23. CONTRACT ORDER OF PRECEDENCE

In the event of a conflict in the provisions of the Contract, as accepted by the Department and as they may be amended, the following shall prevail in the order set forth below:

- Federal Provisions
- Special Terms and Conditions
- Uniform Terms and Conditions
- Statement or Scope of Work
- Specifications
- Attachments
- Exhibits
- Special Instructions to Offerors
- Uniform Instructions to Offerors
- Other documents referenced or included in the Solicitation

24. LICENSES, PERMITS, CERTIFICATIONS

Contractor, at their expense, shall maintain in current status without any violations, complaints, or suspensions during the term of this contract all Federal, State and Local licenses, permits and certifications required for the operation of a business conducted by the Contractor.

25. CO-OP USAGE

Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

Contractor shall sell to Co-Op Buyers at the same price, and with the same lead times and other terms and conditions under which it sells to Eligible Agencies. With the sole exception of any legitimate additional costs for extraordinary shipping, or delivery requirements, if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).

Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

26. POST AWARD MEETING

At the discretion of the Department, the Contractor, at their expense, shall attend and participate in post award meetings as scheduled by the Procurement Officer.

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3. "*Contract Amendment*" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4. *"Contractor"* means any person who has a Contract with the State.

1.5. *"Days"* means calendar days unless otherwise specified.

1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8. "*Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona

Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

- Federal Provisions
- Special Terms and Conditions
- Uniform Terms and Conditions
- Statement or Scope of Work
- Specifications
- Attachments
- Exhibits
- Special Instructions to Offerors
- Uniform Instructions to Offerors
- Other documents referenced or included in the Solicitation

2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the

State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.

3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 Offshore Performance of Work Prohibited.
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if

applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3. Indemnification - Patent and Copyright**.** The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5. Compliance With Applicable Laws. The materials and services supplied under this

Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the

materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The

Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

FEDERAL PROVISIONS

1. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The following provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220 available at: https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

The Federal Terms and Conditions under this Contract shall be incorporated in any sub-contractor, or lower-tier agreement for any federally-funded task assignment / project awarded under this Contract.

2. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Department and Contractor acknowledge and agree that, notwithstanding any concurrence b the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Department, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by Federal Funding Agency. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project.

Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) (5323(l)) on the Contractor, to the extent the Federal Government deems appropriate.

Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor shall - provide the Purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also , pursuant to 49 C. F. R. 633.15, provide authorized FTA representative including any PMO Contractor access to Contractor's records and construction sites pertaining to a capital project, defined at 49
U.S.C. 5302(a)1, which is receiving assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.15, Contractor shall provide the Purchaser, authorized FTA representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which receives FTA assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at
$250,000.00.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non- profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor shall provide the Purchaser, FTA, the US Comptroller General or their authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor shall retain, and shall require its subcontractors at all tiers, all books, records, accounts and reports required under this contract for a period of not less than five years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

5. TERMS OF THE MASTER AGREEMENT AND COMPLIANCE

Contractor shall at all times comply with all applicable Federal Funding Agency laws, regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, available at https://www.transit.dot.gov/funding/grantee-resources/sample-fta- agreements/fta-grant-agreements, between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. This Master Agreement does not have an Expiration Date. This Master Agreement continues to apply to the Recipient and its Underlying Agreement, until modified or superseded by a more recently enacted or issued applicable federal law, regulation, requirement, or guidance, or amendment to this Master Agreement or the Underlying Agreement. To assure compliance the Recipient must take measures to assure that other participants in its Underlying Agreements (*e.g.*, Third Party Participants) comply. Contractor's failure to so comply shall constitute a material breach of this contract.

All contractual provisions required by the U.S. Department of Transportation are hereby incorporated by reference. In the event of additional funding provided by FHWA, the applicable requirements of the Stewardship Agreement, available at https://www.fhwa.dot.gov/federalaid/stewardship, between the Department and FHWA are incorporated by reference.

6. CIVIL RIGHTS REQUIREMENTS

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply

with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

Equal Employment Opportunity

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex(including sexual orientation and gender identity), age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements Federal Funding Agency may issue.

2. Race, Color, religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

3. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

4. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42
   U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements Federal Funding Agency may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided, modified only if necessary to identify the affected parties.

7. TERMINATION

Termination of the contract shall be in accordance with the Uniform Terms and Conditions, Section 9., paragraph 9.1 through 9.6.

8. DEBARMENT OR SUSPENSION

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

a) Debarred from participation in any federally assisted Award;

b) Suspended from participation in any federally assisted Award;

c) Proposed for debarment from participation in any federally assisted Award;

d) Declared ineligible to participate in any federally assisted Award;

e) Voluntarily excluded from participation in any federally assisted Award; or

f) Disqualified from participation in ay federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Department, the

Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

8.1 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

The Contractor agrees to the following:

(1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:

(a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,

(b) It will review the U.S. GSA "System for Award Management," https://www.sam.gov, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and

(c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

(1) Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at https://www.sam.gov, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and

If the Department suspends, debars, or takes any similar action against a Third Party Participant or individual, the Department will provide immediate written notice to the:

(a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project,
(b) FTA Project Manager if the Project is

administered by an FTA Headquarters Office, or

(c) FTA Chief Counsel.

9. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER

POLLUTION CONTROL ACT Clean Water

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with FTA assistance.

Clean Air

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2) Contractor shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with FTA assistance.

10. BUY AMERICA

In any task assignment / project for construction, acquisition of goods, or rolling stock valued at more than $150,000, the contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than $150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 65% domestic content for FY2019 and a minimum 70% domestic content for FY2020 and beyond. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed a certification shall be rejected as

nonresponsive. This requirement does not apply to lower tier subcontractors.

11. BREACHES AND DISPUTE RESOLUTION

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the Department. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the Department. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Department shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Department and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Department or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

12. LOBBYING

The Contractor agrees to comply with the provisions of Title 31, U.S. C 1352 as

amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. 1601, et seq.] and (Public Law 101.121) as codified in Title 48, Federal Acquisition Regulations Subpart 3.8 and Subpart 52.203-11. The legislation prohibits Federal funds from being expended by a recipient or any lower tier sub- recipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the award of any Federal contract, the making of any Federal grant or loan, or entering into any cooperative agreement, including the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. All disclosure statements are to be furnished to the Department.

Contractors who apply or propose/bid for an award of $100,000 or more in value shall file the attached Lobbying Certification {01Lobbying Certification document} required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government- financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not
available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

14. ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

15. CONFLICTS OF INTEREST / EMPLOYMENT OF FEDERAL PERSONNEL

Contractors will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the Department or the Federal funding agency shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: The employee, officer or agent, any member of his immediate family, His or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. Department officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

16. COPYRIGHT AND PATENT

To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless ADOT against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of this contract performance or use by ADOT of materials furnished or work performed under this contract. ADOT shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

Copyrights pursuant to 23 CFR 420.121 (b): The Department, as a State DOT may copyright any books, publications, or other copyrightable materials developed in the course of the project, and does herein exercise that right. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

Patents pursuant to 23 CFR 420.121 (i): The Department, as a State DOT is subject to the provisions of 37 CFR part 401 governing patents and inventions and must include or cite the standard patent rights clause at 37 CFR 401.14, except for §401.14(g), in all subgrants or contracts. In addition, State DOTs must include the following clause, suitably modified to identify the parties, in all subgrants or contracts, regardless of tier, for experimental, developmental or research work: “The subgrantee or contractor will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subgrant or contract, obtain rights in the subgrantee's or contractor's subject inventions.”

Standard Patent Rights required pursuant to 37 CFR 401.14:

(a) Definitions

(1) Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C.

2321 et seq.).

(2) Subject invention means any invention of the contractor conceived or first actually reduced to practice in the performance of work under this contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(3) Practical Application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) Small Business Firm means a small business concern as defined at section 2 of Pub. L. 85-536 (15
U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) Nonprofit Organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(7) The term statutory period means the one-year period before the effective filing date of a claimed invention during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

(8) The term contractor means any person, small business firm or nonprofit organization, or, as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

(b) Allocation of Principal Rights

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention

throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Contractor

(1) The contractor will disclose each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor.

(2) The contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. If the contractor files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. The contractor will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) For any subject invention with Federal agency and contractor co-inventors, where the Federal agency employing such co-inventor determines that it would be in the interest of the government, pursuant to 35 U.S.C. 207(a)(3), to file an initial patent application on the subject invention, the Federal agency employing such co-inventor, at its discretion and in consultation with the contractor, may file such application at its own expense, provided that the contractor retains the ability to elect title pursuant to 35 U.S.C. 202(a).

(5) Requests for extension of the time for disclosure, election, and filing under

paragraphs (1), (2), and (3) of this clause may, at the discretion of the Federal agency, be granted. When a contractor has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the Federal agency notifies the contractor within 60 days of receiving the request.

(d) Conditions When the Government May Obtain Title

The contractor will convey to the Federal agency, upon written request, title to any subject invention—

(1) If the contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(2) In those countries in which the contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the Federal agency, the contractor shall continue to retain title in that country.

(3) In any country in which the contractor decides not to continue the prosecution of any non- provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Contractor and Protection of the Contractor Right to File

(1) The contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the contractor fails to disclose the invention within the times specified in (c), above. The contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the contractor is a party and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the sucessor of that party of the contractor's business to which the invention pertains.

(2) The contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the contractor, its licensees, or the domestic

subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Contractor Action to Protect the Government's Interest

(1) The contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph (c) of this clause, to assign to the contractor the entire right, title and interest in and to each subject invention made under contract, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) For each subject invention, the contractor will, no less than 60 days prior to the expiration of the statutory deadline, notify the Federal agency of any decision: Not to continue the prosecution of a non- provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a

post-issuance submission, and supplemental examination.

(4) The contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, “This invention was made with government support under (identify the contract) awarded by (identify the Federal agency). The government has certain rights in the invention.”

(g) Subcontracts

(1) The contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a subcontractor.. The subcontractor will retain all rights provided for the contractor in this clause, and the contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the agency may reasonably specify. The contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the contractor.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the contractor agrees that neither

it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

(1) Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Contracts with Nonprofit Organizations

If the contractor is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the contractor;

(2) The contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the contractor agrees that the Federal agency may review the contractor's licensing program and decisions regarding small business applicants, and the contractor will negotiate changes to its licensing policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the contractor could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4). In accordance with 37 CFR 401.7, the Federal agency or the contractor may request that the Secretary review the contractor's licensing program and decisions regarding small business applicants.

17. RECOVERED MATERIALS

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

18. SAFE OPERATION OF MOTOR VEHICLES

a. Seat Belt Use. The Recipient agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

(1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles, and

(2) Including a "Seat Belt Use" provision in each third party agreement related to the Award.

b. Distracted Driving, Including Text Messaging While Driving. The Recipient agrees to comply with:

(1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225),

(2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, and

(3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

(a) Safety. The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award,

(b) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving, and

(c) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34.b(3)(a) – (b) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

19. CERTIFICATION AND ASSURANCES

The FTA Certifications and Assurances are incorporated herein by reference. Upon award or contract renewal, the Contractor must agree to comply with the most current FTA Certifications and Assurances by signing and submitting the signature page provided by the Department. In the event FTA issues new Certifications and Assurances, the Department reserves the right to require submission of a new signature page agreeing to comply; to be added to the terms and conditions by Amendment. All such requests are a condition of continued award.

20. DISADVANTAGED BUSINESS ENTERPRISES

1.0 Policy:

The Arizona Department of Transportation (hereinafter the Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Department has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Department to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Department:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE program; and
7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.

It is also the policy of the Department to facilitate and encourage participation of Small Business Concerns (SBCs), as defined herein, in USDOT-assisted contracts. The Department encourages contractors to take reasonable steps to eliminate obstacles to SBCs' participation and to utilize SBCs in performing contracts.

2.0 Assurances of Non-Discrimination:

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Department deems appropriate, which may include, but are not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;

3. Liquidated damages;
4. Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding; and/or
5. Cancellation, termination, or suspension of the Contract, in whole or in part.

The contractor, subrecipient, or subcontractor shall ensure that all subcontract agreements contain this non-discrimination assurance.

3.0 Definitions:

(A) Commercially Useful Function (CUF): Commercially Useful Function is defined fully in 49 CFR 26.55, which definition is incorporated herein by reference.

(B) Disadvantaged Business Enterprise (DBE): a for-profit small business concern which meets both of the following requirements:

(1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(C) NAICS Code: The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

(D) Non-DBE: any firm that is not a DBE.

(E) Race-Conscious (RC): a measure or program focused specifically on assisting only DBEs, including women-owned DBEs.

(F) Race-Neutral (RN): a measure or program used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

(G) Small Business Concern (SBC): a business that meets all of the following conditions:

(1) Operates as a for-profit business registered to do business in Arizona;

(2) Operates a place of business primarily within the U.S., or makes a significant contribution to the U.S. economy through payment of taxes

or use of American products, materials, or labor;

(3) Is independently owned and operated;

(4) Is not dominant in its field on a national basis; and

(5) Does not have annual gross receipts that exceed the Small Business Administration size standards average annual income criteria for its primary North American Industry Classification System (NAICS) code.

(H) Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

(1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are enrolled members of federally or State recognized Indian tribe, Alaskan Natives or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) "Women;"

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business

Administration (SBA), at such time as the SBA designation becomes effective.

4.0 Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction. All proposers should contact the Department's Business Engagement and Compliance Office (BECO) by phone, through email, or at the address shown below, for assistance in their efforts to use DBEs in the highway construction industry. BECO contact information is as follows:

Arizona Department of Transportation Business Engagement and Compliance Office 1801 W. Jefferson St., Ste. 101, Mail Drop 154A
Phoenix, AZ 85007
Phone (602) 712-7761
FAX (602) 712-8429
Email: contractorcompliance@azdot.gov Website: www.azdot.gov/bec

4.01 Mentor-Protégé Program:

The Department has established a Mentor- Protégé program as an initiative to encourage and develop disadvantaged businesses in the highway construction industry. The program encourages prime contractors to provide certain types of assistance to certified DBE subcontractors. ADOT encourages contractors and certified DBE subcontractors to engage in a Mentor-Protégé agreement under certain conditions. Such an agreement must be mutually beneficial to both parties and to ADOT in fulfilling requirements of 49 CFR Part 23. For guidance regarding this program refer to the Mentor-Protégé Program Guidelines available on the BECO website.

The Mentor-Protégé program is intended to increase legitimate DBE activities. The program does not diminish the DBE rules or regulations, and participants may not circumvent these rules.

5.0 Applicability:

The Department has established an overall annual goal for DBE participation on Federal aid contracts. The Department intends for the goal to be met with a combination of race conscious efforts and race neutral efforts. Race conscious participation occurs when the contractor uses a percentage of DBEs, as defined herein, to meet the contract specified goal. Race neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race neutral as when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract

on a prime contract that does not carry a DBE contract goal.

Prime contractors are encouraged to obtain DBE participation even if a DBE goal was not established on a contract.

The DBE provisions are applicable to all contractors including DBE contractors.

6.0 Certification and Registration:

6.1 DBE Certification:

Certification as a DBE shall be predicated on:

(1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".

(2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.

(3) The submission of any additional information which the Department or the applicable Arizona Unified Certification (UCP) agency may require to determine the firm's eligibility to participate in the DBE program.

(4) The information obtained during the on-site visits to the offices of the firm and to active job-sites.

Applications for certification may be filed online with the Department or the applicable UCP agency at any time through the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) website at http://www.azutracs.com.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

ADOT is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at http://www.azutracs.com/. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification of a DBE is not a representation of qualifications and/or abilities nor does it mean that a DBE firm is guaranteed or entitled to receive or be awarded a contract. Being certified simply means that a firm has met the criteria for

DBE certification as outlined in 49 CFR Part 26. The contractor bears all risks of ensuring that DBE firms selected by the contractor are able to perform the work.

6.2 SBC Registration:

To comply with 49 CFR Part 26.39, ADOT's DBE Program incorporates contracting requirements to facilitate participation by Small Business Concerns (SBCs) in federally assisted contracts. SBCs are for- profit businesses authorized to do businesses in Arizona that meet the Small Business Administration (SBA) size standards for average annual revenue criteria for its primary North American Industry Classification System (NAICS) code.

While the SBC component of the DBE program does not require utilization of goals on projects, ADOT strongly encourages contractors to utilize small businesses that are registered in AZ UTRACS on their contracts, in addition to DBEs meeting the certification requirement. The contractor may use the AZ UTRACS website to search for certified DBEs and registered SBCs that can be used on the contract. However, SBCs that are not DBEs will not be counted toward DBE participation.

SBCs can register online at the AZ UTRACS website.

The Department's registration of SBCs is not a representation of qualifications and/or abilities nor does it mean that an SBC firm is guaranteed or entitled to receive or be awarded a contract. Being SBC registered simply means that a firm has met the criteria for SBC registration as outlined in 49 CFR Part
26. The contractor bears all risks of ensuring that SBC firms selected by the contractor are able to perform the work.

7.0 DBE Financial Institutions:

The Department thoroughly investigates the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its service area and makes reasonable efforts to use these institutions. The Department encourages prime contractors to use such institutions on USDOT assisted contracts. However, use of DBE financial institutions will not be counted toward DBE participation.

The Department encourages prime contractors to research the Federal Reserve Board website at www.federalreserve.gov to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center database.

8.0 Time is of the Essence:

TIME IS OF THE ESSENCE IN RESPECT TO THE DBE PROVISIONS.

9.0 Computation of Time:

In computing any period of time described in this DBE special provision, such as calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal or State holiday. In circumstances where the Department's offices are closed for all or part of the last day, the period extends to the next day on which the Department's offices are open.

10.0 Contractor and Subcontractor Requirements:

10.1 General:

Each contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

10.2 DBE Liaison:

The contractor shall designate a DBE Liaison responsible for the administration of the contractor's DBE program. The name of the designated DBE Liaison shall be included in the DBE Intended Participation Affidavit Summary.

11.0 DBE Goals

The Department has not established contract goals for DBE participation in this contract.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The contractor is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

11.1 Race Neutral Contract (With No DBE Goal)

The Department has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. ADOT has received federal financial assistance from the USDOT and as a condition of receiving this assistance, ADOT has signed an assurance that it shall comply with 49 CFR Part 26.

It is ADOT's policy to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in federally-funded contracts.

NO CONTRACT DBE GOAL HAS BEEN ESTABLISHED FOR DBE PARTICIPATION ON THIS CONTRACT.

Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The consultant is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

12.0 Bidders/Proposers List and AZ UTRACS Registration Requirement:

Under Title 49 CFR of the Code of Federal Regulations, Part 26.11, DOTs are required to collect certain information from all contractors and subcontractors who seek to work on federally-assisted contracts in order to set overall and contract DBE goals. ADOT collects this information when firms register their companies on the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) web portal at http://www.azutracs.com/ a centralized database for companies that seek to do business with ADOT. This information will be maintained as confidential to the extent allowed by federal and state law.

Prime contractors and all subcontractors, including DBEs listed in the offer must be registered in AZUTRACS. Proposers may verify that their firm and each subcontractor is registered using the AZUTRACS website.

Proposers may obtain additional information at the AZ UTRACS website or by contacting BECO.

All proposers shall create a Bidders/Proposers list in the AZ UTRACS by selecting all firms, service providers, and vendors that expressed interest or submitted proposals or quotes for this contract. The Bidders/Proposers List form must be complete and must include the names for all subcontractors, service providers, and vendors that submitted proposals or quotes on this project regardless of the proposer's intentions to use the those firms on the project.

All proposers must complete and submit the Bidders/Proposers List online at AZ UTRACS prior to Offer submittal. A confirmation email will be generated by the system. This email confirmation shall be submitted with the Offer.

13.0 Payment Reporting:

The contractor shall report on a monthly basis indicating the amounts paid to all subcontractors, of all tiers, working on the project. Reporting shall be in accordance with below.

Subcontracts:

a. Sub-Contract Terms:

1. The Contractor agrees to execute a written Contract with all Subcontractors for work to be completed under this Contract. The executed Contract shall include Subcontractor's Scope of Work and all the Uniform Terms and Conditions set forth in this Contract.

2. The Contractor shall provide electronic copies of signed subcontract agreements with all Subcontractors to ADOT Business Engagement and Compliance Office (BECO) by uploading them to the BECO's online DBE Contract & Labor Compliance Management System (**DBE System**) at https://adot.dbesystem.com. Subcontract agreements shall include all required assurances and required clauses as outlined in this Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.

3. The Contractor may be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department.

b. Sub-Contract Payments

1. Retention: If the prime contract does not provide for retention, the contractor and each subcontractor of any tier shall not withhold retention on any subcontract. If the prime contract provides for retention, the prime contractor and each subcontractor of any tier shall not retain a higher percentage than the Department may retain under the prime contract. Retainage shall be paid to the subcontractor within 7 days of satisfactory completion of the work performed by the subcontractor.

2. No Set-offs Arising from Other Contracts: If a subcontractor is performing work on multiple contracts for the same contractor or subcontractor of any tier, the contractor or subcontractor of any tier shall not withhold or reduce payment from its subcontractors on the contract because of disputes or claims on another contract.

3. Partial Payment: The contractor and each subcontractor of any tier shall make prompt partial payments to its subcontractors within seven days of receipt of payment from the Department. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.

4. Final Payment: The contractor and each subcontractor of any tier shall make prompt final payment to each of its subcontractors. The contractor and each subcontractor of any tier shall pay all monies, including retention, due to its subcontractor within seven days of receipt of payment. Notwithstanding any provision of Arizona Revised Statutes Section 28-411, the parties may not agree otherwise.

5. Payment Reporting: For the purposes of this subsection "Reportable Contracts" means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any

tier with a DBE material or service supplier.

The requirements of this subsection apply to all Reportable Contracts.

Payment Reporting for all Reportable Contracts shall be done through the Department's web- based DBE System. The DBE System can be accessed from the Department's BECO website. No later than fifteen calendar days after the Notice to Proceed is issued, the contractor shall log into the Department's web based DBE System and enter or verify the name, contact information, and subcontract amounts for Reportable Contracts on the project. As Reportable Contracts are approved over the course of the contract, the contractor shall enter them in the system. Reportable contracts shall be entered into the system no later than five calendar days after approval by the Department.

The contractor shall report on a monthly basis indicating the amounts actually paid and the dates of each payment under any Reportable Contract on the project. In addition, the contractor shall require that all participants in any Reportable Contract electronically verify receipt of payment on the contract by the last day of the month and the contractor shall actively monitor the Department's DBE System to ensure that the verifications are input. The contractor shall proactively work to resolve any payment discrepancies in the DBE System between payment amounts it reports and payment confirmation amounts reported by others.

The contractor shall ensure that all Reportable Contract activity is reported to the Department. This includes all lower-tier Reportable Contracts, regardless of whether a DBE is involved or not.

The contractor shall maintain records for each payment explaining the amount requested by the subcontractor, and the amount actually paid pursuant to the request, which may include but are not limited to, estimates, invoices, pay requests, copies of checks or wire transfers, and lien waivers in support of the monthly payments in the DBE System.

The contractor shall provide information for payments made on all Reportable Contracts during the previous month by the 15th day of the current month. In the event that no payments were made during a given month, the contractor shall identify that by entering a dollar value of zero. If the contractor does not pay the full amount of any invoice from a subcontractor, the contractor shall note that and provide the reasons in the comment section of the Monthly Payment Audit of the DBE System.

For each Reportable Contract on which the contractor fails to submit timely payment information the Department will retain $1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non- reporting, the liquidated damages will increase to $2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages

shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

Payment reporting requirements apply to all contracts, federal and non-federal funded.

The contractor shall ensure that a copy of this Subsection is included in every Reportable Contract of every tier.

(a) Sanctions for Inadequate Reporting:

For each Reportable Contract on which the contractor fails to submit timely and complete payment information the Department will retain $1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to $2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

6. Completion of Work: A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted by the Department.

7. Disputes: If disputes arise regarding payment of subcontractors, the contractor shall immediately provide the ADOT Project Manager with a written, verifiable explanation if:

   - The contractor does not pay the full amount of any invoice from a subcontractor within seven days of receipt of a progress payment from the Department, or
   - The monthly estimate does not include all work claimed by a subcontractor to have been performed.

   The Department will determine whether the contractor has acted in good faith concerning any such explanations. The Department reserves the right to request and receive documents from the contractor and all subcontractors of any tier, in order to determine whether termination requirements were met. The contractor shall implement and use the dispute resolution process outlined in the subcontract, as described in Uniform Terms and Conditions Paragraph, to resolve payment disputes.

8. Non-Compliance: Failure to make prompt partial payment or prompt final payment including any retention, within the time frames established in this contract, will result in remedies, as the Department deems appropriate, which may include, but are not limited to:

   - Liquidated Damages: These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the

contract.

(i) The Department will withhold two times the disputed dollar amount not paid to each subcontractor.
(ii) If full payment is made within 30 days of the Department's payment to the contractor, the amount withheld by the Department will be released.
(iii) If full payment is made after 30 days of the Department's payment to the contractor, the Department will release 75 percent of the funds withheld. The Department will retain 25 percent of the monies withheld as liquidated damages.

- Additional Remedies: If the contractor fails to make prompt payment for three consecutive months, or any four months over the course of one project, or if the contractor fails to make prompt payment on two or more contracts within 24 months, the Department may, in addition, invoke the following remedies:

(i) Withhold monthly progress payments until the issue is resolved and full payment has been made to all subcontractors and vendors subject to the requirements outlined under "Liquidated Damages" above,
(ii) Terminate the contract for default in accordance with this Contract, and/or
(iii) Suspension or Debarment per Uniform Terms and Conditions Paragraph 9.3 of the contractor from future bidding temporarily or permanently, depending on the number and severity of violation.
(iv) Reflect the contractor's performance in submitting payment reports and making subcontractor payments utilizing the Department's Vendor Performance Report.

14.0 Crediting DBE Participation:

14.01 General Requirements:

To count toward DBE participation, the DBE firms must be certified at the time of Offer submission in each NAICS code applicable to the kind of work the firm will perform on the contract. NAICS for each DBE can be found on the AZ UTRACS website. General descriptions of all NAICS codes can be found at http://www.naics.com/search/.

Credit is given only after the DBE has been paid for the work performed.

The entire amount of a contract that is performed by the DBE's own forces, including the cost of supplies and materials purchased by the DBE for the work on the contract and equipment leased by the DBE will be credited toward DBE participation. Supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate will not be credited toward DBE participation.

The contractor bears the responsibility to determine whether the DBE possesses the

proper contractor's license(s) to perform the work and, if DBE credit is requested, that the DBE subcontractor is certified for the requested type of work.

The Department's certification is not a representation of a DBE's qualifications and/or abilities. The contractor bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime contractor, subcontractor, or as a vendor of materials or supplies. The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

The contractor may credit second-tier subcontracts issued to DBEs by non-DBE subcontractors. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

A prime contractor may credit the entire amount of that portion of a contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE participation.

A prime contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consulting, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

14.02 DBE Prime Contractor:

When a certified DBE firm proposes on a contract/Task Assignment all the work that is performed by the DBE contractor or any other DBE subcontractors and DBE suppliers will count toward DBE participation.

14.03 Effect of Loss of DBE Eligibility:

For On-Call Task Assignment contracts, if a DBE is deemed ineligible (decertified) or suspended by ADOT or one of its UCP Partner Agencies in accordance with 49 CFR 26.87 and 26.88, the DBE may not be count toward DBE participation on a new Task Assignment, but may be considered for the contract/Task Assignment DBE participation if a subcontract or contract modification for the work to be completed on the Task Assignment was executed before the DBE suspension or decertification is effective.

A subcontract or contract modification for work on the task assignment means, any subcontract or agreement for the task assignment, which includes a specific ADOT TRACS/Project Number, defined scope, duration and budget for the work to be completed under the Task Assignment that is duly signed by the contractor/contractor and subcontractor/subcontractor.

When the contractor/contractor intents to use an ineligible DBE firm or ADOT made a commitment to use an ineligible DBE prime contractor/contractor, but a subcontract or Contract Modification for the work to be completed on the Task Assignment has not been executed before a decertification notice is issued to the DBE firm by its certifying agency, the ineligible firm does not count toward DBE participation. When a subcontract or contract modification is executed with the DBE firm for the work to be completed on the Task Assignment before ADOT notified the firm of its ineligibility, the DBE's work on the Task Assignment may continue to be credited toward DBE participation for the firm's work.

14.04 Notifying the Contractor of DBE Certification Status:

Each DBE contract at any tier shall require any DBE subcontractor or supplier that is either decertified or certified during the term of the contract to immediately notify the contractor and all parties to the DBE contract in writing, with the date of decertification or certification. The contractor shall require that this provision be incorporated in any contract of any tier in which a DBE is a participant.

14.05 Commercially Useful Function:

A prime contractor can credit expenditures to a DBE subcontractor only if the DBE performs a Commercially Useful Function (CUF).

A DBE performs a CUF when it is responsible for execution of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself that it uses on the project. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually

performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The Department will determine if the firm is performing a CUF given the type of work involved and normal industry practices.

The Department will notify the contractor, in writing, if it determines that the contractor's DBE subcontractor is not performing a CUF. The contractor will be notified within seven calendar days of the Department's decision.

Decisions on CUF may be appealed to the Chief Procurement Officer (CPO). The appeal must be in writing and personally delivered or sent by certified mail, return receipt requested, to the CPO. The appeal must be received by the CPO no later than seven calendar days after the decision of BECO. BECO's decision remains in place unless and until the CPO reverses or modifies BECO's decision. CPO will promptly consider any appeals under this subsection and notify the contractor of CPO's findings and decisions. Decisions on CUF matters are not administratively appealable to USDOT.

The BECO may conduct project site visits on the contract to confirm that DBEs are performing a CUF. The contractor shall cooperate during the site visits and the BECO's staff will make every effort not to disrupt work on the project.

15.0 Required Provisions for DBE Subcontracts:

All subcontracts of any tier, all supply contracts, and any other contracts in which a DBE is a participant shall include as a physical attachment, DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits.

Contractors executing agreements with subcontractors, DBE or non-DBE, that materially modify federal regulation and state statutes such as, prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such

remedy as the deemed appropriate as outlined in DBE Subsection 2.0 of these DBE provisions.

The Department reserves the right to conduct random reviews of DBE and non-DBE subcontract documentation to ensure compliance with federal requirements.

The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontracts be performed in accordance with 49 CFR Part 26 provisions.

The Contractor shall provide electronic copies of subcontract agreements with all Subcontractors by uploading them within 15 calendar days of an executed contract to the ADOT DBE System. Subcontract agreements shall include all required assurances and clauses as outlined in DBE Subcontractor Compliance Assurances refer to the Federal Attachments and Exhibits of the Contract. Each agreement and required attachment shall be dated and signed by the Subcontractor in order for the subcontract to be considered valid.

The Contractor shall be in breach of this Contract if the Contractor materially modifies the federal regulations and State statutes in its subcontract agreements terms and conditions with its Subcontractors. Deviations from the terms of this Contract may result in termination of the Contract, or any other such remedy as deemed appropriate by the Department

16.0 Certification of Final DBE Payments:

DBE participation on the contract is measured by actual payments made to the DBEs. The contractor shall submit the “Certification of Final DBE Payments” form for each DBE firm working on the contract. This form shall be signed by the contractor and the relevant DBE, and submitted to the Engineer no later than 30 days after the DBE completes its work.

The contractor will not be released from the obligations of the contract until the ”Certification of Final DBE Payments” forms are received and deemed acceptable by the Engineer and BECO.

17.0 False, Fraudulent, or Dishonest Conduct:

In addition to any other remedies or actions, the Department will bring to the attention of the US Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take steps such as referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General for possible initiation of suspension and debarment proceedings against the offending parties or application of “Program Fraud and Civil Penalties” rules provided in 49 CFR Part 31.

21. NONDISCRIMINATION

1. During the performance of this Contract, the Consultant, for itself, its Subconsultants, assignees and successors shall:

   a. Not discriminate on the basis of race, color, national origin, or sex and shall carry out applicable requirements of 49 CFR Part 26 in the performance of this Contract. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract, disqualification from proposing on other Contracts or other remedy as the State deems appropriate.

   b. Comply with Executive Order 2009-09, "Prohibition of Discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this Contract.

   c. Comply with the provisions of Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). Said provisions are made applicable by reference and are hereinafter considered a part of this Contract.

   d. Post in conspicuous places available to employees and applicants for employment, the following notice:

      "It is the policy of this company not to discriminate against any employee, or applicant for employment, because of race, color, religion, creed, national origin, sex, age, handicapped, or disabled veterans and Vietnam era veterans. Such actions shall include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising; laying- off or termination; rates of pay or other compensation; and selection for training, and on-the- job training. Also, it is the policy to ensure and maintain a working environment free of harassment, intimidation and coercion."

   e. Comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the
      U.S. Department of Transportation (hereinafter USDOT), 49 CFR Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

   f. Not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or

indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

g. In all solicitations either by competitive bidding or negotiations made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, notify each potential Subconsultant or supplier of the Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, or national origin.

h. Provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State as appropriate, and shall set forth what efforts it has made to obtain the information.

2. In the event of the Consultant's noncompliance with the NONDISCRIMININATION provision (Section A) of this Contract, the State shall impose such Contract sanctions as the State or FHWA may determine to be appropriate, including but not limited to:

   a. Withholding of payments to the Consultant under the Contract until the Consultant complies,

   and/or;

   b. Cancellation, termination, or suspension of the Contract, in whole or in part.

3. The Consultant shall include the provisions of paragraph 1.a. through 1.h. in every subcontract with Subconsultants, DBEs and non-DBEs, including procurement of materials and equipment leases, unless exempt by the Regulations or directives issued pursuant thereto.

4. The Consultant shall take such action with respect to any Subconsultants or procurement as the State or the Federal Aviation Administration (FAA), FHWA and the Federal Transit Administration (FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in or is threatened with litigation with a Subconsultant or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State, and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

22. AFFIRMATIVE ACTION

Contractor shall take the following affirmative action steps with respect to securing supplies, equipment, or services under the terms of this contract:

a. Include qualified firms owned by socially and economically disadvantaged individuals on solicitation lists.

b. Assure that firms owned by socially and economically disadvantaged individuals are solicited whenever they are potential sources.

c. When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum participation by firms owned by socially and economically disadvantaged individuals.

d. Where the requirement permits, establish delivery schedules which will encourage participation by firms owned by socially and economically disadvantaged individuals.

e. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, and the Community Services Administration, as required.

23. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed

with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

24. FEDERAL CHANGES

The Contactor and its sub-contractors shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

25. PROMPT PAY

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

26. FULL AND OPEN COMPETITION

In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be

conducted in a manner that provides full and open competition.

27. PROHIBITION AGAINST EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

28. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

29. ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy.

Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

30. NOTIFICATION OF FEDERAL PARTICIPATION

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of $500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

31. INTEREST OF MEMBERS OR DELEGATES TO CONGRESS

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

32. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors (https://www.sam.gov/SAM/) for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

33. OTHER CONTRACT REQUIREMENTS

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the Department.

34. COMPLIANCE WITH FEDERAL REGULATIONS

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT- required contractual provisions, as set forth in FTA Circular 4220, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

35. REAL PROPERTY

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by Map-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

36. ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP)

Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

37. ENVIROMENTAL JUSTICE

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42
U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

38. ENVIRONMENTAL PROTECTIONS

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

39. GEORGRAPHIC INFORMATION RELATED TO SPATIAL DATA

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

40. GEOGRAPHIC PREFERENCE

Pursuant to 2 CFR 200.319(b), all procurements must be conducted in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract).

41. ORGANIZATIONAL CONFLICTS OF INTEREST

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows:

(1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:

(a) To that Third Party Participant or another Third Party Participant performing the Project work, and
(b) That impairs that Third Party Participant's objectivity in performing the Project work, or

(2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,

(3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:

(a) Any instances of organizational conflict of interest, or
(b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and

(4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

42. VETRANS PREFERENCE

As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

(1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
(2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

43. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) IDENTIFICATION NUMBER

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

44. AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

45. BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency."

46. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

44. BUS TESTING

The operator of the bust testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus

model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the Agency during the point in the procurement process specified by the Agency, but in all cases before final acceptance of the first bus by the Agency. The complete bus testing report requirements are provide in 49 C.F.R. § 665.11.

45. CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and

c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

46. E-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

EXHIBIT 1
Title VI/Non-Discrimination Assurances
Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the *Federal Highway Administration,* as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *Federal Highway Administration* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *Federal Highway Administration,* as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration* ,may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient or the *Federal Highway Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that **if** the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT 2
Title VI/Non-Discrimination Assurances
Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.,* 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin): and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *etseq.),* (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.),* (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et. seq).

ADOT
Procurement

EXHIBIT 3
ADOT Procurement Quarterly Usage Report

This exhibit outlines the content required for the quarterly usage report. Usage reports will be submitted to the appropriate Procurement Officer in accordance with the requirements specified in Special Terms and Conditions. The Department reserves the right to make additions, deletions and changes as deemed necessary.

Reporting Period:

Contract ID/Code:		Contact Name:		Alternate Contact Name:	
Contract Label/Description:		Contact Phone Number:		Alternate Contact Phone Number:	
Contractor:		Contact Email:		Alternate Contact Email:	
Contractor Address:					

Agency/Org/Unit	Customer Name	Delivery Address	PO Number or Identify as "P-Card"	Order Date	Contract Item Number	Contract Item Description	Quantity	Unit of Measure	Contract Unit Price	Contract Extended Price	Invoice Number

EXHIBIT 4
ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Post-Delivery purchaser's requirement, in compliance with the federal requirements of 49 U.S.C. Section 5323(m))

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 10 vehicles for areas >200,000 in population)

As required by 49 CFR Part 663Subpart C, the

_____
(Recipient's name)

Certifies that a resident inspector,

_____
(Name of inspector)

Was at

_____
(the manufacturer's)

manufacturing site during the period of manufacture of the buses,

_____
(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION

(Rolling Stock Procurements for more than 20 vehicles for areas < 200,000 in population)

As required by 49 CFR Part 663 Subpart C, the

_____
(Recipient's name)

Certifies that a resident inspector,

_____
(Name of inspector)

Was at

_____
(the manufacturer's)

manufacturing site during the period of manufacture of the buses,

_____
(description of buses).

The inspector visually inspecting the buses, the _____ (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

Signature _____ Date _____/ _____/ _____
Title _____

EXHIBIT 5
PRE-AWARD AUDIT AND CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
PRE-AWARD AUDIT (before issuing purchase order)		
Pre-award audit requirements. A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.		Master Agreement; 49 CFR §663.21
49 CFR 661.13 Grantee Responsibility (a) The grantee shall adhere to the Buy America clause set forth in its grant contract with FTA Section 16. Preference for United States Products and Services. a. Buy America. Domestic preference procurement requirements of: (1) 49 U.S.C. § 5323(j), as amended by FAST Act, and (2) FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with FAST Act,		49 CFR §663.13
49 CFR §663.23 Description of pre-award audit. A pre-award audit under this part includes— (a) A Buy America certification as described in §663.25 of this part; (b) A purchaser's requirements certification as described in §663.27 of this part; and (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in §663.41 or §663.43 of this part.		49 CFR §663.23
Met? Y/N (if NO 1b, 1 REQ'D)	(1) A Buy America certification:	49 CFR §663.25
	a) There is a letter from FTA which grants a waive OR	
Met? Y/N (if NO 1a, 2 REQ'D)	b) ADOT reviewed documentation provided by the manufacturer which lists—	
	1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and	
	2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.	
Met? Y/N (2 REQ'D)	(2) A purchaser's requirements certification:	49 CFR §663.27
	a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and	
	b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's	
Met? Y/N (1 REQ'D)	(3) A manufacturer's Federal Motor Vehicle Safety certification or Certification that Federal motor vehicle standards do not apply.	
	a) If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	49 CFR §663.41
	a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer.	49 CFR §663.43

EXHIBIT 6
PURCHASER'S PRE-AWARD REQUIREMENTS CERTIFICATION

Subrecipient	
Description	
Program/Phase/Amounts	

Purchaser's Pre-Award Requirements Certification
49 CFR §663.27

I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and

I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's

Signature

Date Signed

EXHIBIT 7
PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation_law/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis' (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; **or**	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; **and**	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 7
PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient		Date / Completed By
Description		
Program/Phase/Amounts		
The Post-Delivery Review Requirements (http://www.fta.dot.gov/legislation_law/12921_5430.html)		
The Post-Delivery Buy America Certification Requirement		
Select basis' (1 REQ'D)	Buy America-Compliant Buses	49 CFR 663(b)
	§663.33 Description of post-delivery audit. A post-delivery audit under this part includes—	
	(a) A post-delivery Buy America certification as described in §663.35 of this part;	
	§663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—	
	(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; **or**	
	(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.	
Met? Y/N (3 REQ'D)	(b) A post-delivery purchaser's requirements certification as described in §663.37 of this part; **and**	
	§663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—	
	(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall— (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.	
	(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.	
	(c) For procurements of: (1) Ten or fewer buses; or (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.	
Met? Y/N (1 REQ'D)	(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in §663.41 or §663.43 of this part.	
	§663.41 Certification of compliance with Federal motor vehicle safety standards. If a vehicle purchased under this part is subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, a recipient shall keep on file its certification that it received, both at the pre-award and post-delivery stage, a copy of the manufacturer's self-certification information that the vehicle complies with relevant Federal Motor Vehicle Safety Standards.	
	§663.43 Certification that Federal motor vehicle standards do not apply. (a) Except for rolling stock subject to paragraph (b) of this section, if a vehicle purchased under this part is not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in part 571 of this title, the recipient shall keep on file its certification that it received a statement to that effect from the manufacturer. (b) This subpart shall not apply to rolling stock that is not a motor vehicle.	

EXHIBIT 8
PURCHASER'S POST-AWARD REQUIREMENTS CERTIFICATION

Subrecipient	
Description	
Program/Phase/Amounts	

Purchaser's Post-Award Requirements Certification
49 CFR §663.37

I hereby certify that the rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and

I hereby certify that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's

Signature

Date Signed

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: One (1)**
DESCRIPTION: New Vehicles Purchase	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. The solicitation due date has been changed from January 17, 2022 at 3:00 PM MST to January 19, 2022 at 3:00 PM MST.

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Two (2)**
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. **Specifications**
   The following sections are hereby modified to read:

   a. **Paragraph 2.1** "The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified vendor(s) who can provide new vehicles (all fuel types, hybrid, and full electric) including but not limited to: Sedans, Trucks up to 19,500 GVWR, Vans, Sport Utility Vehicles (SUVs), and Crossovers for the State of Arizona and participating Eligible Agencies. These vehicles will be used to support official organizational goals. These vehicles will be used on highways, city/county roads and shall be designed to operate under typical Arizona ambient temperatures."
   b. **Paragraph 3.3.1, 3.5.1 and 3.5.2** is hereby removed.
   c. **Paragraph 4.1**: "The Contractors are encouraged to provide a full line of new vehicles (gasoline, hybrid, full electric) including but not limited to the following categories: Sedans, Trucks up to 19,500 GVWR, Vans (cargo, passenger, transit, etc.), Sport Utility Vehicles (SUVs), and Crossovers. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured new vehicles and all subsequent variants of each vehicle; including but not be limited to: models and manufacturer options, trim package, etc. to meet each need of an Eligible Agency."
   d. **Paragraph 4.1.1** is hereby removed.
   e. **Paragraph 4.4.1:"** The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, the cab and chassis of ½ ton, ¾ ton, and/or up to 19,500 GVW trucks may require a specialized body (i.e.: dump body, landscape body, etc.). Other vehicles may require interior and/or exterior modifications per the individual Eligible Agency. "
   f. **Paragraph 4.6.1**: " Anti-slip differential for two-wheel drive pickup trucks, ¾ ton, up to 19,500 GVW."

2. **Special Terms and Conditions**

   The following sections are hereby modified to read:

   a. Paragraph 11.1, (a-g): "Phase 1 and 2 pricing for vehicles shall be a minimum Percentage off MSRP, less the manufacturer's rebates and any additional discounts available for that model/power-train combination.
      a. Contractor shall provide a copy of manufacturer's invoice to the ordering agency upon request. The manufacturer's invoice shall be unaltered to include original pricing from the manufacturer.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Three (3)**
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. **Specifications**
   The following sections are hereby modified to read:

   a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."

   b. **Paragraph 3.10**: "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

ADOT
Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Two (2)**
DESCRIPTION: New Vehicles Purchases	

b. Transportation costs to transfer a vehicle from another dealer for a Phase 2 or purchase from stock may be added to the cost of the vehicle. The justification for this cost is at the discretion of the Eligible Agency.
c. Any reference to Phase 1 pricing shall be in reference to vehicles ordered prior to the factory cut-off date.
d. Any reference to Phase 2 pricing shall be in reference to vehicles purchased from stock or "on the lot".
e. Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.

f. All vehicles are to be billed at prices in effect at the time of order, not the date of shipment.

g. Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes. Pricing shall be firm for life of contract unless amended by way of contract change order. "

b. Paragraph 22 is hereby replaced with the following: "The Contractor shall furnish Two (2) Usage reports, the first to the Department on a quarterly basis showing purchasing activity under this contract. This usage report shall be provided in a form substantially equivalent to Exhibit 03. Usage reports shall be submitted to the Procurement Officer no later than 30 days after the end of each quarter.

Usage report quarters shall be defined as follows:

- January through March – Report due April 30
- April through June – Report due July 30
- July through September – Report due October 30
- October through December – Report due January 30

Contractor shall submit the second to the State documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted; even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee"

c. Paragraph 25: Co-op administrative fee has hereby been removed.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Two (2)**
DESCRIPTION: New Vehicles Purchases	

3. **Offer Response Form** is hereby replaced with Revision Two (2) attachment.

4. All other terms, conditions and provisions of this solicitation remain unchanged.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1739 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Solicitation Amendment Summary

SOLICITATION NO.: BPM004157	**AMENDMENT NO.: Three (3)**
DESCRIPTION: New Vehicles Purchases	

Pursuant to the Uniform Instructions to Offerors, Item B.6, Solicitation Amendments, the above referenced solicitation shall be amended as follows:

1. **Specifications**
   The following sections are hereby modified to read:

   a. **Paragraph 3.5** "For Phase Two (2) vehicles, the Contractor shall supply a quote within five (5) calendar days after receiving a request from the Eligible Agency. The quotation shall include but not be limited to the following information: State contract number, vehicle availability and delivery lead-time, Vehicle Identification Number (VIN), dealer stock number, vehicle base bid price, itemized options, applicable tax, delivery cost, total price, and point of contact. For vehicles requiring up-fit/modifications, all applicable cost may be included in quotation or as a separate quotation."

   b. **Paragraph 3.10**: "For Phase One (1) the Contractor shall provide the Eligible Agency copies of the manufacturer's vehicle identification numbers (VIN#) to confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation of manufacturer's VIN #(s) is not received within this timeframe the Eligible Agency has the option to award to the second lowest bidder meeting specifications. This shall be considered a mandatory requirement and the timeframe must be met unless there is a manufacture delay. Failure to provide this document for each vehicle ordered may be cause for determination of default of contract."

2. All other terms, conditions and provisions of this solicitation remain unchanged.

Procurement

ARIZONA DEPARTMENT OF TRANSPORTATION
1655 W. Jackson Street, MD 100P
Phoenix, AZ 85007
602.712.7211

Contract Amendment Summary

CONTRACTOR: Courtesy Chevrolet	**AMENDMENT NO.: One (1)**
DESCRIPTION: New Vehicle Purchases	

Pursuant to the Uniform Terms and Conditions, Section 5, Contract Changes, the above referenced contract is amended. Summary of changes is as follows:

1. Amendment One (1) to mutually extend this contract from March 17, 2023 through March 16, 2024, unless terminated, canceled or extended as otherwise provided in the contract.

2. All other terms, conditions and provisions of this contract remain unchanged.

ADOT
Procurement

Offer Response Form for New Vehicle Purchases Revision Two (2)

Please respond to the following items according to the instructions below. Each response should demonstrate the Offeror's ability to satisfy the Specifications requirements. Failure to respond may negatively impact the option to award.

1.1. The Contractor shall provide the goods/services described in any or all of the contract categories. Indicate the categories that apply to your offer:

- ◉ **Category One: Phase One (1) Vehicle Purchases**
- ◉ **Category Two: Phase Two (2) Vehicle Purchases**
- ◉ **Category Three: FTA Funded Vehicles**

1.2 PHASE ONE (1) Pricing for New Vehicle Purchases: Price List: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the time of Proposal submittal.* Do not provide pricing on any other format other than what is provided below:

Phase One (1) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Malibu/Spark/Bolt	10%
Silverado	14%
SUV	10%
Express	10%
4500/5500	10%
Low Cab Forward (LCF)	20%

1.3 PHASE TWO (2) Pricing for New Vehicle Purchases: (Any manufacturer available by Offeror shall be written in below which includes all optional equipment) Price shall be a fixed percentage off MSRP. The detailed price list for each available model will be sent to the Procurement Officer as they become available during the contract term. If multiple level discounts apply for that specific category, you may provide the minimum percentage. *Detailed price lists will not be required at the*

time of Proposal submittal. Do not provide pricing on any other format other than what is provided below:

Phase Two (2) Manufacture/Category (i.e. Silverado, F150, RAM 1500, Focus, Cruze, Dart etc.) Per Minimum Specifications	Percentage (%) Off of Manufacture Retail Price (MSRP)
Phase Two	
Cars	3%
Silverado	5%
SUV	1%
Express Vans	3%
4500/5500	5%
Low Cab Forward	10%

1.4 Delivery Fees: If the contractor offers delivery for the following counties, they must be indicate and include any delivery fee associated with those areas as applicable.

County	Delivery Fee $	County	Delivery Fee $	County	Delivery Fee $
Apache	325	Greenlee	375	Pima	250
Cochise	300	La Paz	300	Pinal	225
Coconino	200	Maricopa	0	Santa Cruz	325
Gila	275	Mohave	300	Yavapai	225
Graham	375	Navajo	350	Yuma	300

1.5 Evaluation Pricing: The Contractor shall submit pricing for the following Vehicles. The vehicles listed which is representative of the scope of work that will be performed under this Contract, and therefore constitutes a fair method for determining price fair and reasonable:

1.5.1 Phase One (1) Evaluation Pricing:

Estimated Usage Quantity	PHASE ONE (1) Base Model Vehicle	Base Price for Phase One (1)	Additional Information
75	Sports Utility Vehicle (SUV) *(base model)* Per Minimum Specifications	$20,940 plus tax	2022 Chevrolet Trax LS
25	One (1) Ton Cargo Van *(base model)* Per Minimum Specifications	$25,860.00 plus tax	2022 1 Ton Express Cargo
50	1/2 Ton Truck Regular Cab *(base model)* Per Minimum Specifications	$21.812.00 plus tax	2022 Silverado 1500 Reg Cab

Offer Response Form for New Vehicle Purchases
Revision Two (2)

1.5.2. Phase Two (2) Evaluation Pricing:

Estimated Usage Quantity	PHASE TWO (2) Base Model Vehicle	Base Price for Phase TWO (2)	Additional Information
25	Sports Utility Vehicle (SUV) *(base model)* Per Minimum Specifications	$22,106.00 plus tax	2022 Chevrolet Trax
15	One (1) Ton Cargo Van *(base model)* Per Minimum Specifications	$26,698.00 plus tax	2022 1 Ton Express Cargo
25	1/2 Ton Truck Regular Cab *(base model)* Per Minimum Specifications	$21,812.00 plus tax	2022 1500 Reg Cab

9. H.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sam Beckett, Public Works Streets Section Director

Co-Submitter: Marshall Ronningen

Date: 06/27/2023

Meeting Date: 07/03/2023

TITLE:

Consideration and Approval of Contract: Cooperative Purchase Contract with Brightly Software, Inc. in the amount of $308,022.53, plus additional fees and taxes, for Facilities Maintenance Software

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Brightly Software, Inc. in the amount of $308,022.53, plus additional fees and taxes, for Facilities Maintenance Software; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Facilities Maintenance has spent the last two (2) years working through a comprehensive program review. Through this review process staff learned that Facilities Maintenance falls short in several key industry standards, including but not limited too, asset tracking, work order management, and staffing vs building square footage. The staffing vs building square footage is a significant 40% deficiency, even when fully staffed.

As a result of this process Facilities Maintenance realized quickly that an asset management/work order system was desperately needed. Facilities Maintenance started down the path to find a viable asset management/work order system that could meet the City's needs. Along with other Public Works team members, staff spent significant time reviewing and demoing numerous software venders and through this review process Brightly Software, Inc. ("Brightly Software") came to the top. Brightly Software provides one of the top work order asset management tools and brings significant experience in the facilities maintenance world and should be a great tool for Facilities Maintenance staff while greatly enhancing our customer service levels.

If the Cooperative Purchase Contract is approved, Brightly Software will begin immediately with an asset inventory and condition assessment which will give staff a phenomenal database right out of the gate while reducing staff time on the implementation. Facilities Maintenance believes this tool will take a small Facilities Maintenance team to the next level of service for all City customers, while better aligning with our priority based budgeting (PBB) goals across the City.

Financial Impact:

Facilities Maintenance was approved for funding of $250,000 of this project in account 001-06-152-0510-3-4343 in the FY2023-24 Budget. The remaining portion of the contract will need to be funded with future budget appropriation or within the Facilities Maintenance base budget.

Policy Impact:

N/A

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Carbon Neutrality Plan

This new asset management system directly aligns with the carbon neutrality plan by tracking all city facility assets and projecting the life span of these assets while tracking the efficiency of things like boilers, air conditioning units, and lighting so that we can see where to properly invest funding each year. This tool will greatly support the City-wide energy conservation project through Noresco while tracking all work completed for future reference.

Priority Based Budget Key Community Priorities and Objectives

This new work order/asset management tool aligns with and support PBB through proper asset tracking and asset replacement projecting which should significantly reduce the amount of "emergency" capital asset replacements we have been seeing. By not properly tracking and projecting replacement of facility assets we see increases in electricity, natural gas usage, and reductions of energy ratings. By not having some sort of asset management system the city winds up in a wait and see situations on asset failures, with limited ability to budget properly. This tool directly supports the mission on good governance by keeping all City facilities open and operational and increasing energy efficiencies.

Has There Been Previous Council Decision on This:

No.

Background/History:

City of Flagstaff Public Works division requested the City's Procurement team help with a fair purchase. Procurement utilized a Sourcewell cooperative purchase contract for competitive and open procurement process based on the Sourcewell Request for Proposal Solicitation No. 090320 that resulted in Contract # 090320-SDI with Contractor.

Attachments: Contract
Exhibit A - Quote
Exhibit B.1
Exhibit B.2

COOPERATIVE PURCHASE CONTRACT
Contract No. 2023-151

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 20_____by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and Brightly Software, Inc., a Corporation of North Carolina, FKA Dude Solutions, Inc. ("Contractor").

RECITALS:

A. Contractor is a fully authorized vendor of Brightly Software;

B. Sourcewell conducted a competitive and open procurement process through Request for Proposal Solicitation No. 090320 that resulted in Contract No. 090320-SDI with Contractor ("Agency Contract"); and

C. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

Brightly Software for COF Facilities

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Purchase Order(s) submitted to Contractor or ***Exhibit A*** attached hereto and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided for **three hundred eight thousand twenty-two dollars and fifty-three cents ($308,022.53) in addition to other fees and taxes**; made in accordance with the price list and terms set forth in the Agency Contract.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in ***Exhibit B*** attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract, including, specifically changes in price for the materials.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

BRIGHTLY SOFTWARE, INC.:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A
QUOTE Q-368867 (attached)

EXHIBIT B
AGENCY CONTRACT

1. Contract WITH Brightly formally Dude Solutions 090320
2. 0909320-SDI Pricing

PREPARED FOR

City Of Flagstaff ("Subscriber")

Samuel (Sam) Beckett
Public Works Section Director-Streets & Facilities
211 W Aspen Avenue
Flagstaff, AZ 86001

PREPARED BY

Brightly Software Inc ("Company")

11000 Regency Parkway, Suite 300

Cary, NC 27518

Dude Solutions is now Brightly. Same world-class software, new look and feel.

Meet Brightly at brightlysoftware.com

PUBLISHED ON

June 01, 2023

Q-368867

Sourcewell/NJPA purchasing contract

- *https://www.sourcewell-mn.gov/cooperative-purchasing/090320-sdi#tab-contract-documents (https://www.sourcewell-mn.gov/cooperative-purchasing/090320-sdi#tab-contract-documents).*
- Contract #090320-SDI
- Expiration date: 11/2/2024

Term: 60 months (07/01/2023 - 06/30/2028)

Cloud Services

Item	Start Date	End Date	Investment
Asset Essentials Core Plus	7/1/2023	6/30/2024	26,970.60 USD
- Facilities/Physical Plant Module	7/1/2023	6/30/2024	Included
- Dude Analytics	7/1/2023	6/30/2024	Included
- Asset Essentials Inventory	7/1/2023	6/30/2024	Included
			Subtotal: 26,970.60 USD

Professional Services

Item	Investment
Asset Essentials Consulting - Parts	4,484.00 USD
Asset Essentials Core Implementation with Consulting	20,270.15 USD
Facility Condition Assessment	110,239.30 USD
PM Schedule Creation	14,919.25 USD
Equipment Barcode Tagging	14,919.25 USD
	Subtotal: 164,831.95 USD

Total Initial Investment	191,802.55 USD

Remaining Services Invoices

	Annual period beginning	Investment
Year 2	7/1/2024	27,779.72 USD
Year 3	7/1/2025	28,613.11 USD
Year 4	7/1/2026	29,471.50 USD
Year 5	7/1/2027	30,355.65 USD

Asset Essentials with Parts Implementation with Consulting Statement of Work

Summary:

Company will provide specified professional consulting services to Subscriber to implement AE (Asset Essentials), an on-line Computerized Maintenance Management System. These professional services include meeting with key stakeholders to ensure the set-up and configuration of the system will meet the client's operational needs; location and category hierarchies are configured appropriately; workflows meet the needs of the business; available data is cleaned, aligned, and imported; and end users are trained and ready for go-live.

In Scope: The Deliverables below will be considered in scope of this SOW:

1. Asset Essentials Implementation with Consulting
2. Asset Essentials Training
3. Post Consulting Support

Deliverables:

- Project initiation and discovery
- Available location, asset, part (if associated part service has been purchased), storage location, user, PM (preventative maintenance) schedule data loaded
- Account configuration
- User acceptance testing (UAT)
- End user training for Administrator and Full User roles
- Go-live support

Acceptance Process:

As each deliverable is completed, the Project Coordinator will confirm with the Subscriber and document acceptance in the Project Community Portal.

- Project initiation and discovery
    - Kick-off call complete.
    - Discovery call complete
    - Data, configuration, and training requirements documented.
- Available Data Loaded
    - Available location, asset, user, part (if associated part service has been purchased), storage location, PM data is loaded in AE to meet documented data requirements.
- Account Configuration
    - Account has been setup and configured to meet documented configuration requirements.
- User Acceptance Testing
    - Consultant-led end-to-end walkthrough and client UAT has demonstrated functionality satisfying configuration requirements.
- End User Training
    - Administrator and Full User roles have been received training on their role.
- Go-Live Support
    - 30-day Go-Live Support period has been concluded.
- Project Closed

Assumptions:

Subscriber Assumptions:

- There will be a single point of contact/project manager for the duration of the project.
- IT department is responsible for ensuring access to mobile devices, internet connections, email access, and web link access to the software such as white listing IP addresses.
- The appropriate resources will be available for all scheduled activities. Canceling or rescheduling consulting activities within 2 weeks of the scheduled activity may result in a rescheduling fee being assessed.
- For any on-site activities, Subscriber will provide a dedicated space with adequate technology, including but not limited to monitor/projector, computers, mobile devices, quality phone and internet connections.
- Will provide relevant data to be loaded in a timely manner and in Excel or CSV format. Each record type will be provided in one file with one sheet with column headings and one record with corresponding attributes per row.
- If unable to provide data in an acceptable format for import, Consultant will guide Subscriber on how to manually create records.

Company Assumptions:

- Consultant will not access any 3rd party systems for the purpose of exporting data.
- Once End User Training has been completed, 30-day Go-Live Support period begins, consisting of up to 4 weekly 30-minute check-ins with the Implementation Specialist. If client does not attend a scheduled check-in, it will be assumed no assistance was required.
- For any on-site activities, Company will bill Subscriber for actual travel and associated expenses incurred.
- Any services not explicitly included in this SOW are assumed to be out of scope.
- Subscriber has up to (5) business days to confirm deliverable acceptance. No response will be interpreted as acceptance.

Project Schedule:

- Kick-off Call with Project Coordinator
    - Confirm software and services purchased
    - Identify key stakeholders
    - Assign resources
    - Schedule key milestone dates, including anticipated projected completion date
    - Access to Company's on-line Learning Management System
    - Access to an interactive project plan
- Discovery with Consultant
    - Interview key stakeholders to understand specific maintenance & operations objectives
    - Overview of AE with key stakeholders, including data import requirements
    - Determine optimal AE configuration to meet objectives and drive KPIs
    - Document data, configuration and training requirements
    - Schedule required consulting activities and confirm projected completion date
- Data loaded by Consultant
    - Review, cleanse, and load available location, asset, part (if associated part service has been purchased), storage location, user, and scheduled PM data
- Account configuration by Consultant
    - Populate key drop-down menus
    - Review/modify request, work order, asset, part (if associated part service has been purchased) templates
    - Configure workflow for request/approval/assignment of work orders
- User Acceptance Testing
    - Configuration demo to walk through the end-to-end workflow from request to completion
    - Demonstrate key functionality meets configuration requirements
- Consultant conducts End User Training for Administrator and Full User roles
    - End-to-end walkthrough for their role
    - Desktop and mobile training
- Go-Live Support
    - Company provides (4) weekly check-in calls with Implementation Specialist and Subscriber

- Company Implementation specialist addresses any issues identified. Where issues require product support, Implementation Specialist will submit to Company Support
- Implementation Specialist adjusts configurations as needed prior to project close

- Project Close

Sample Project Timeline (project timelines may vary):

Timeline Events	Day 1	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13
Project Kick Off Call														
LMS (Learning Management System) Review and Q&A														
Discovery Call														
Data Review														
Data Loading														
Account Configuration														
UAT (User Acceptance Testing)														
User Training														
Post-Consulting Call														
GLS (Go Live Support)														
Project Close														

Change Management:

Subscriber may request that the Company add services not in the specifications by submitting a written proposed change order to the Company. Submitted change requests will be reviewed for approval. Approved change orders will become part of the applicable SOW when executed by both Parties, and the services described therein will become part of the services.

Invoicing:

At the conclusion of the Go Live Support period, the main consulting milestone will be completed to trigger billing for the full service.

Facility Condition Assessment Scope of Work

Purpose

Brightly's ("Company") facility condition assessment ("FCA") is a visual assessment evaluating the facility systems based on the following Standard Scope of Work ("SOW"). This FCA service will collect data on major facility assets, as well as provide narratives that summarize assessment observations and comments. An inventory of Equipment Items as well as a forecast model of upcoming System/Sub-System replacements will be imported into Company's work & asset management, capital forecasting and capital prediction software solutions as set forth on the applicable Order Form.

Value

By partnering with Company you not only gain the engineering expertise of Company's Service Providers; you also are provided with assurance that the data collected as a result of the facility condition assessment is properly integrated into your Company software applications. Company has successfully completed more than 800 projects ranging from Facility Condition Assessments, Asset Inventory Collection (including barcoding) and preventive maintenance schedule creation. Our methodology provides you with confidence to make better data, decision-making on both short-term and long-term capital investment needs of your organization.

Deliverables

All FCA's will include a deliverable containing the following items:

- Narrative report with descriptions of major systems and corresponding conditions
- Primary digital photos of key components and deficiencies are included in the narrative

- 20-year capital Reserve table with System/Sub-System replacement costs and dates
- Import of Systems-level detail into client's Company capital forecasting/prediction solution
- Import major Equipment Items into client's Company work & asset management solution.

Methodology and Approach

A Certified Company Service Provider will collect, document, and analyze
the facilities assessment data to achieve the following:

- At the start of each building or facility assessment we will interview client's staff to understand what improvements have been made in the last three years, what improvements are planned in the next three years and known problems that may exist.
- Inventory all major building equipment including quantity, size, asset tag number, manufacturer, model and serial number.
- Identify deficient conditions in terms of deferred maintenance and building condition.
- Provide a reasonable cost analysis for the above-mentioned efforts.

- For single building projects, provide a report for the property that details the assessment data.
- For multi-building projects, data will be collected from every building in the portfolio. The narrative report will include an executive role up for all sites included with the service.

The field data collection will be performed at an individual and system level as described below:

1. Detailed data collection of individual equipment items will be captured to build an equipment inventory which will be imported into Company's work & asset management solution as defined in the Asset Inventory and System/Component table below.
2. A condition assessment of major building systems, including HVAC, Electrical, Plumbing, Roofing, Site Paving, Vertical Transportation, Structural and Building Envelope to be imported into Company's capital forecasting/prediction solution as defined in the Asset Inventory and System/Component table below.

1. HVAC equipment items only will also be tracked in the capital forecast or prediction solution as specific Sub-Systems. For these items, Make/Model/Serial Number will be captured and tracked in the Equipment Inventory, and the item will also be included as a Sub-System.
2. All other major Systems will be collected at the Systems Level in Company's capital forecasting solution as a general Sub-Systems.

Asset Inventory and Systems/Component Table

The following table defines the standard SOW that will be followed to capture the equipment data used to build the Equipment Inventory, which will be imported into the Work & Asset Management Solution as well as the System-Sub-System data used to build the Capital Reserve Table that will be imported into the capital forecasting or prediction solution.

Table Column Header Descriptions

Individual or System Level Capture

- Individual = Item will be collected individually
- System = Item will be grouped by system or sub-system, location will correspond to the associated building structure

Item Represented in Capital Forecasting or Prediction solution? Y/N

- No = Cost information related to individually captured items will be provided at a system or sub-system level only in capital forecasting or prediction solution

Included in Equipment Inventory? Y/N

- No = Item will not be setup in the work & asset management solution

*Items captured as a system will be setup as a single equipment inventory item so that work can be tracked against it.

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Exterior Systems				

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Exterior Doors	System Level	Yes	No	
Exterior Walls (Finish)	System Level	Yes	No	
Exterior Windows	System Level	Yes	No	
Roofing	System Level	Yes	No	
Electrical				
Automatic Transfer Switch	Individual	No	Yes	Make/Model/Serial number will be captured when available
Electric Door Systems	Individual	No	Yes	Exterior Doors Only
Emergency Generators	Individual	No	Yes	Must be Permanently Installed, does not include mobile units
Main Distribution Panels	Individual	No	Yes	Primary panel bringing utility into building only
Motor Control Centers	Individual	No	Yes	
Switchgear	Individual	No	Yes	
Transformers	Individual	No	Yes	Primary Service to Building (Must be Client Owned)
Breakers, switches or starters	Not Included in Service			
Individual light fixtures (emergency, exterior, etc.)	Not Included in Service			
Motors	Not Included in Service			
Portable Generators	Not Included in Service			

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Secondary Electrical Panels	Not Included in Service			
VFDs	Not Included in Service			
Emergency Back-Up Lights	System Level	Yes	Yes	Cost model based upon building SQ FT cost
Lighted Exit Signs	System Level	Yes	Yes	
Equipment				
Commercial Laundry (washers, dryers)	Individual	No	Yes	
Commercial Trash Compactors	Individual	No	Yes	Client-Owned, Permanently-installed facility infrastructure units only
Residential Type Appliances, Shop Tools and Equipment	Not Included in Service			Residential Washer/Dryers, Refrigerators, Microwaves and Ranges Not Included
Exterior Enclosure				
Garage Door & Garage Door Opener	Individual	No	Yes	Commercial Type Garage Openers Only (Excludes Residential single care garage doors)
Fire Protection				
Eyewash / Safety Showers	Individual	No	Yes	Permanently Installed Items
Fire Pump	Individual	No	Yes	Main Fire Pump and Jockey Pumps greater than 1 HP
Main Fire Panel	Individual	No	Yes	
Fire valves, hydrants	Not Included in Service			Included in Alarm System SF Cost

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Smoke detectors, horn strobes	Not Included in Service			Included in Alarm System SF Cost
AEDs	System Level	Yes	Yes	
Fire Alarm System	System Level	Yes	Yes	Barcode applied to Main Fire Panel
Fire Extinguishers	System Level	Yes	Yes	
Specialty Fire Suppression System	System Level	Yes	Yes	Kitchen-Style Suppression System
Sprinkler System	System Level	Yes	Yes	
HVAC				
Air Handling Units	Individual	Yes	Yes	Includes Rooftop and Ground
Boilers	Individual	Yes	Yes	
Building Automation System	Individual	Yes	Yes	
Chilled Water pumps	Individual	Yes	Yes	
Chillers	Individual	Yes	Yes	
Cooling Tower pumps	Individual	Yes	Yes	
Cooling Towers	Individual	Yes	Yes	
Deaerators	Individual	Yes	Yes	
Energy Recovery Units	Individual	Yes	Yes	
Exhaust Fans	Individual	Yes	Yes	Rooftop Only
Exhaust hoods	Individual	Yes	Yes	
Furnaces	Individual	Yes	Yes	Non-Residential

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Heat Pumps	Individual	Yes	Yes	Make/Model/Serial number will be captured for both interior and exterior when accessible; otherwise it will be captured as one single cost and item
Hot Water pumps	Individual	Yes	Yes	
Make Up Air Units	Individual	Yes	Yes	
Package AC Units	Individual	Yes	Yes	Includes Rooftop and Ground
Split Systems	Individual	Yes	Yes	Ductless Split Systems will be captured as one single item. The barcode will be located on the exterior unit
Unit Heaters	Individual	Yes	Yes	
Fan Coil Units*	Individual	Yes	Yes	Included in the service and quantified based on client supplied data and/or drawings only. ***No visual capture**.
Unit Ventilators*	Individual	Yes	Yes	Included in the service and quantified based on client supplied data and/or drawings only. ***No visual capture**.
VAV Boxes*	Individual	Yes	Yes	Included in the service and quantified based on client supplied data and/or drawings only. ***No visual capture**.
Window Units	Not Included in Service			
Radiators	Not Included in Service			
Thermostatic Controls	Not Included in Service			
Interior Systems				

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Interior Ceiling	System Level	Yes	No	
Interior Doors	System Level	Yes	No	
Interior Floor	System Level	Yes	No	
Interior Walls	System Level	Yes	No	
Kitchen				
Dishwashers	Individual	No	Yes	Commercial-Style, non-residential
Freezer (Walk In, Reach In)	Individual	No	Yes	
Grease Traps	Individual	No	Yes	Will not receive a barcode if barcoding services is included
Large Kitchen Equipment	Individual	No	Yes	Valued above $2,000
Oven, Stoves	Individual	No	Yes	
Refrigerator (Walk In, Reach In)	Individual	No	Yes	Commercial-Style, non-residential
Broilers, Grills, Fryers	Individual	No	Yes	Valued above $2,000
Counter Top Appliances	Not Included in Service			
Cutlery	Not Included in Service			
Tables, Racks	Not Included in Service			
Plumbing				
Domestic Hot Water Heaters	Individual	No	Yes	80 Gallons and Above. Does not include Instant Hot Water Heaters
Domestic Water Booster Pumps	Individual	No	Yes	1 HP and above

Sub-System	Individual or System Level Capture	Item Represented in Capital Forecasting? (Y/N)	Included in Equipment Inventory? (Y/N)	Comments
Hot Water Storage Tank	Individual	No	Yes	
Main Backflow Preventer	Individual	No	Yes	Includes Domestic and Fire Suppression
Sump Pumps	Individual	No	Yes	
Fixtures	System Level	Yes	No	
Filters	Not Included in Service			
Strainers	Not Included in Service			
Valves	Not Included in Service			
Site Improvements				
Drainage Systems	System Level	Yes	No	
Parking, Paving , Sidewalks	System Level	Yes	No	
Utilities	System Level	Yes	No	Under the floor, behind the wall related items – electrical distribution, Domestic water/sewer & HVAC Ductwork. Cost per sq. ft. estimation for replacement/rehab.
Vertical Transportation				
Dumb Waiter	Individual	No	Yes	
Elevators	Individual	No	Yes	
Escalators	Individual	No	Yes	

For the Equipment Items and Systems/Sub-Systems listed in the Asset Inventory and Systems/Component Table above, the following attributes will be captured as follows depending on whether the item is included in the Equipment Inventory and/or as a General or Specific System Component of the Capital Forecast or Capital Prediction solution:

	Work & Asset Management Data Population (Y/N)	Capital Forecasting Data Population (Y/N)	
Field Name	**Equipment Items**	**General Sub-System**	**Specific Sub-System**
Equipment Item Number	Y	N	Y* Corresponding Equipment Item Number will replace Sub-System ID
System-Component ID	N	Y	N* Corresponding Equipment Item Number will replace Sub-System ID
Site/Location/Building Name	Y	Y	Y
Description	Y	Y	Y
System/Sub-System	N	Y	Y
Classification/Type	Y	N	N
Unit of Measure	N	Y	Y
Quantity	N	Y	Y
Unit Cost	N	Y	Y
Manu/Model/Serial Numbers	Y	N	N* Will be included on Individual Equipment Record

	Work & Asset Management Data Population (Y/N)	Capital Forecasting Data Population (Y/N)	
Field Name	**Equipment Items**	**General Sub-System**	**Specific Sub-System**
Tag (if available)	Y	N	N
Date In Service (if available)	Y	Y	Y
Condition	Y	Y	Y
Estimated Replacement Cost	Y	Y	Y
Estimated Next Replacement Date	Y	Y	Y
Life Cycle	Y	Y	Y
Included in 20-year Capital Forecast?	N	Y	Y

Evaluation

At the conclusion of the assessment(s), the Company Service Provider will prepare reports as described above that include:

- A general description of the property and improvements and comment generally on observed conditions.
- Comments for components that are exhibiting deferred maintenance issues and provide estimates for "immediate" and "capital repair" costs based on observed conditions, available maintenance history and industry-standard useful life estimates. If applicable, this analysis will include the review of any available documents pertaining to capital improvements completed within the last three years, or currently under contract. The Company Service Provider shall also inquire about available maintenance records and procedures and interview current available on-site maintenance staff.
- A schedule for recommended replacement or repairs (schedule of priorities).
- Address critical repairs separately from repairs anticipated over the term of the analysis.
- A FCI index number for each building.
- A twenty year capital plan with an Executive Summary with graphic presentation of results to provide a quick, "user-friendly" summary of the property's observed condition and estimated costs assigned by category.

Cost Estimating

Each single building report will include an estimated cost for each System/Sub-System repair or replacement anticipated during the evaluation term. The capital needs analysis will be presented as an Excel-based cost table that includes a summary of the description of each component, the age and estimated remaining useful life, the anticipated year of repair or replacement, quantity, unit cost and total cost for the repair of each line item. A consolidated Capital Needs Analysis will be presented that includes all anticipated capital needs for all buildings.

In addition to the detailed description of the deficiencies, we will provide cost estimates for the deficiencies noted. The cost estimate for capital deficiencies will be based on the estimate for maintenance and repair. Project management costs, construction fees, and design fees will be derived using actual costs from previous projects, if available.

Company Service Providers use the ASTM Uniformat II system for categorization and a proprietary blend of national prevailing industry-standard cost models for cost estimating. Company also maintains and updates our cost estimating system with information received from the field. Through our construction monitoring work, we have current cost data from hundreds of in-progress construction and rehabilitation projects. This allows us to project costs based on local conditions and to maintain a cost database that in most cases is more current than published models.

Assumptions

- Average building square footage is greater than 10,000 sq. feet. If average square footage of all buildings to be included to receive the service is less than 10,000 sq. feet, custom pricing is needed.
- All buildings are located within one primary geographic zone/region (Example – School District, Higher Education, Main Campus, and Town). If multiple or scattered locations across the state are to receive the service a custom quote must be obtained. (Example – Multiple Higher Education Satellite Campuses locations, State Department Agencies)
- Residence Halls – A sampling would be based upon visits to approx. 20% of the rooms. When calculating the projected replacement cost of the in-residence items, these items will be treated as a system. A cost based upon the sampling will be generated for the system. Individual in-room collection of assets would not be provided, if desired a custom quote would be needed.
- Reconciliation of existing equipment in Company work & asset management solutions and updating of historical records will not be performed. If reconciliation is required this is subject to additional costs depending upon the amount of changes requested.
- Capture of Data plate information is subject to readily accessible, legible information plate.
- Company team members make final determination of whether areas housing assets are safely accessible for data collection.
- Company team members will not move assets or interfere with asset functionality to collect nameplate information.
- All Data on SOW is captured at the asset level – subcomponents of assets listed on the SOW will not be captured.
- Equipment not in service or identified as "Run-to-Fail" are excluded from data gathering service unless inventory is required for compliance purposes.

Client Responsibility

1. Client will provide the needed input, resources, and documentation to support the tasks of the service and associated timelines for delivery of the service.
2. Any data to be migrated from client drawings or spreadsheets has to be provided to the Company Service Provider within 15 business days of completion of onsite activity.
3. Client will review and provide any feedback related to data sent to them for review by Company Service Provider or Company within 15 business days or unless otherwise determined.
4. If Data is not reviewed within the 15 business day time period Company will assume that the Data provided by the Company Service Provider is approved and will load into the client's software.
5. Client will be responsible for scheduling and coordinating all meetings and interviews involving other teams, departments, management teams or other necessary resources required for the success of this project.
6. Client will provide adequate access to working facilities (i.e., access badge, parking pass), if specific authorization or clearance is required client will notify Company and/or Company Service Provider in advance of onsite.
7. Client will ensure that the Company Service Provider is granted accessibility to the facilities and/or systems required to conduct the necessary work defined in this SOW. If Company Service Provider is not granted access to all areas, this could result in missed information gathering and/or delays in implementation timelines. For Flat Roofs, this means providing the Company Service Providers with access to a ladder so that they are able to conduct a visual assessment.
8. Client will ensure that the Company Service Provider is granted accessibility to Company Software, for Clients with Connect Authenticate/Single Sign On this may require your Technology Team to setup the Company Service Provider in your organizations Identity Provider service.
9. Client will provide a knowledgeable escort for work defined in this SOW and access to personnel as necessary.
10. Reconciliation of existing equipment in Company work & asset management solutions and cleanup of historical records and/or data within the software is subject to additional costs depending upon the amount of changes requested.
11. Company is not responsible for reconciliation of portable or moveable assets after onsite collection is performed.
12. Addition of Equipment Barcode Tagging services must be purchased prior to onsite activity by the Company Service Provider and is not included in the Standard FCA SOW.

Milestone Billing - Invoice Schedule

Invoicing for the Facility Condition Assessment service will be provided as delivery milestones are completed for projects equal or greater than 154,000 square feet. Below is the schedule for the billing milestones and the related percentage.

Facility Condition Assessment Milestones	Description	Percentage
Mobilization	Project acquisition template set up, Vendor kickoff call with client, Travel arrangement costs; other miscellaneous pre-visit preparation	15%
On-Site Field Data Capture	Project launch meeting with client first day of onsite, acquisition of data to Scope of Work at all locations included in project, and closing meeting at end of onsite activity to confirm completion and review next step actions.	35%
Data Management	Data activity, including quality assurance and control that occurs after field work is completed to produce the data file.	35%
Report	Creation and delivery of final narrative reports (FCA), and data files (FCA/ Data Gathering) to client.	15%

*If project is greater than 1.5M Square feet additional milestones will be leveraged.

Equipment Inventory Barcoding Service

Purpose

The Equipment Inventory Barcoding Service works with your Brightly Work & Asset Management solution in conjunction with an "Equipment Inventory" (Data Gathering) or a Facility Condition Assessment (FCA) service offering.

Value

Barcoding identifies equipment by assigning a unique number to that equipment item which will then serve as an identifier in your Brightly Work & Asset Management system database allowing for easier identification and tracking of the item. The barcoding of equipment inventory occurs during the onsite equipment data gathering/ collection process.

Deliverables by Brightly to the Client include the following:

- Commercially produced weather resistant barcodes will be applied to the major pieces of equipment covered in the scope of work provided in the Data Gathering or Facility Condition Assessment services.
- Barcode numbers will be available for use at the time equipment inventory data is imported into your Brightly Work & Asset Management solution.

The Brightly Service Provider will make an effort to apply barcodes in a convenient location so the facility's maintenance staff can easily identify them. Based upon our professional expertise, we recommend the following –

- Application of the barcode shall be placed **next to the Data Plate of an Asset**. Placing barcodes in this

location ensures that the barcode can be easily identified and associated to the asset in a CMMS software.
- If data plate is not present, or is inaccessible, the barcode will be placed in an accessible area that is easily seen by maintenance technicians, does not detract from the appearance of the equipment, isn't in danger of being tampered with, or will be otherwise destroyed through normal use and cleaning of the asset.

Assumptions

- Purchase of service is made prior to onsite activity. If onsite activity has been completed, custom pricing would be required as a revisit would be needed for the placement of the barcodes.
- For Asset Essentials Clients, determination of 1D (Standard) vs 2D (QR Codes) is required prior to onsite activity. URL creation along with QR code purchase and encoding is needed prior to onsite activity. If determination is not provided prior to onsite activity, 1D (Standard) barcodes will be used.

Invoice Schedule

Invoicing for the Barcoding Service will be provided upon completion of onsite activity at 100%.

Preventive Maintenance Schedule Creation

Purpose

Preventive Maintenance (PM) Schedule creation is a service offering provided in conjunction with an "Equipment Inventory" (Data Gathering) service or Facility Condition Assessment (FCA). PM Schedules will be generated off the equipment inventory collected by the Company Service Provider during either the Data Gathering or FCA service. The intent of this service is to identify needed procedures and inspections required to maintain facilities systems in safe, reliable and efficient condition.

Value

By leveraging Company's PM Schedule Creation service, Company clients are able to leverage and incorporate regular preventive maintenance best practices of their equipment. By performing regular or routine maintenance best practices, you ensure that your equipment is operating under safe and optimal conditions thus preventing the potential for downtime and shorter life expectancy.

Deliverables

All Preventive Maintenance Schedule Creation services include the following deliverables:

- Creation of PM Schedules for populating your Brightly Work & Asset Management solution
- Data population within Company Software. No report will be provided.

Methodology and Approach

Company Service Providers leverage multiple libraries of PM standards to create PM schedules. These standards are based upon prevailing national codes and standards such as ASTM, ASHRAE, NFPA and BOMA. Procedures related to performing the tasks within the schedule will include:

- Safety Points
- Tools Required
- Estimated Time to Complete Maintenance
- Step-by-step procedure to complete maintenance work order

Prior to the import or population within the Company Software, the Company Service Provider will:

- Review of PM Task Check-off Lists with Client
- Setup baseline PM schedules for the equipment inventory collected
- Work with the Client to determine PM Schedule assignment. Assignment includes setting up the appropriate Technician or contractor who will be performing the related PM tasks into the master import template to ensure that the routing of work flows accordingly in the Work & Asset Management Solution. Assignment will be made at the location or craft level. Anything above and beyond this level of assignment will be managed and maintained by the client within the software or require a custom scope of work for the Company Service Provider to deliver. For assignment to occur, the client must have the Technician or contractor created in the software prior to onsite activity.
- Work with the Client to determine the start date, frequency and load balancing based upon client staffing. If start dates cannot be determined or agreed upon within a timely manner, the PM Schedules will be loaded into the Client's Work & Asset Management solution as "Inactive".

Assumptions

- Client will provide feedback/review of PM Schedules within 15 business days of delivery from the Company Service Provider. If feedback/review of PM Schedules exceeds 30 business days, Company will provide a Deliveriable Acceptance Form to the client to complete review within 30 days. If feedback is not provided during this time period, Company will assume delivery of the service and import the PM schedules as "inactive" in the system. Company will provide training on how updates can be made within the software or perform mass updates if needed for a fee.
- Once PM Schedules are imported into the Company Work and Asset Management applications, any updates and/or alterations of those schedules need to be communicated to Company within 30 days. Company will only make updates related to the below items:

- Discontinuation of PM Schedules created with the service
- Alteration of frequency on existing schedules created with the service
- Alteration of start dates for the schedules created with the service

Otherwise, any revisions beyond this 30 day period will be the responsibility of the client to perform within the software or Company to perform at an additional fee.

- Reconciliation of existing PM Schedules in the client's account is subject to additional costs depending upon the number of active PM's and is not a part of the standard SOW.

Invoice Schedule

Invoicing for the PM Schedule Creation Service will be provided upon receipt of PM Schedule drafts at 100%

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Order Form terms

- By accepting this Order Form, and notwithstanding anything to the contrary in any other purchasing agreement, Subscriber agrees to pay all relevant Fees for the full Services Term defined above.
- Payment terms: Net 30
- The "Effective Date" of the Agreement between Subscriber and Company is the date Subscriber accepts this Order Form.
- This Order Form and its Services are governed by the terms of the Brightly Software, Inc. Master Subscription Agreement found at http://brightlysoftware.com/terms (http://brightlysoftware.com/terms) ("Terms"), unless Subscriber has a separate written agreement executed by Brightly Software, Inc. ("Company") for the Services, in which case the separate written agreement will govern. Acceptance is expressly limited to these Terms. Any additional or different terms proposed by Subscriber (including, without limitation, any terms contained in any Subscriber purchase order) are objected to and rejected and will be deemed a material alteration hereof.
- To the extent professional services are included in the Professional Services section of this Order Form, the Professional Services Addendum found at http://brightlysoftware.com/terms (http://brightlysoftware.com/terms) is expressly incorporated into the Terms by reference.
- During the Term, Company shall, as part of Subscriber's Subscription Fees, provide telephone and email support ("Support Services") during the hours of 8:00 AM and 6:00 PM EST, (8:00 am – 8:00 pm EST for Community Development Services) Monday through Friday ("Business Hours"), excluding Company Holidays.
- Company maintains the right to increase Subscription Fees within the Services Term by an amount not to exceed the greater of prices shown in the investment table or the applicable CPI and other applicable fees and charges every 12 months. Any additional or renewal Service Terms will be charged at the then-current rate.
- Acceptance of this Order Form on behalf of a company or legal entity represents that you have authority to bind such entity and its affiliates to the order, terms and conditions herein. If you do not have such authority, or you do not agree with the Terms set forth herein, you must not accept this Order Form and may not use the Service.
- Proposal expires in sixty (60) days.
- Subscriber shall use reasonable efforts to obtain appropriation in the full amount required under this Order Form annually. If the Subscriber fails to appropriate funds sufficient to maintain the Service(s) described in this Order Form, then the Subscriber may terminate the Service(s) at no additional cost or penalty by giving prior written notice documenting such non-appropriation. Subscriber shall use reasonable efforts to provide at least thirty (30) days prior written notice of non-appropriation. Subscriber agrees non-appropriation is not a substitute for termination for convenience, and further agrees Service(s) terminated for non-appropriation may not be replaced with functionally similar products or services prior to the expiration of the Services Term set forth in this Order Form. Subscriber will not be entitled to a refund or offset of previously paid, but unused Fees.

Additional information

- Prices shown above do not include any taxes that may apply. Any such taxes are the responsibility of Subscriber. This is not an invoice. For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To"

location provided by Subscriber. Tax exemption certifications can be sent to accountsreceivable@brightlysoftware.com (mailto:accountsreceivable@brightlysoftware.com).

- Billing frequency other than annual is subject to additional processing fees.
- Please reference Q-368867 on any applicable purchase order and email to Purchaseorders@Brightlysoftware.com (mailto:Purchaseorders@Brightlysoftware.com)
- Brightly Software, Inc. maintains the necessary insurance coverage for its products and professional services, including but not limited to liability and errors & omissions coverage. Proof of insurance can be provided upon request.

Signature

Presented to:

Q-368867
June 01, 2023, 4:55:09 PM

Accepted by:

Printed Name

Signed Name

Title

Date

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Solicitation Number: RFP #090320

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Dude Solutions, Inc., 11000 Regency Pkwy. #110, Cary, NC 27518 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires November 2, 2024, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.

C. SURVIVAL OF TERMS. Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in

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Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

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Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

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A fully executed Sourcewell Price and Product Request Form will be become an amendment to this Contract and be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

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B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entitles may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. PERFORMANCE BOND. If requested by a Participating Entity, Vendor will provide a performance bond that meets the requirements set forth in the Participating Entity's order.

D. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

F. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

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B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above “Attn: Accounts Receivable.” Payments must be received no later than 45 calendar days after the end of each calendar quarter.

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Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. ASSIGNMENT. Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. WAIVER. If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused

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by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of 6 years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INDEMNIFICATION

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.

15. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
    a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use theTrademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
    b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.
2. *Limited Right of Sublicense*. The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and

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promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.

b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.

c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination*. Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. ENDORSEMENT. The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

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17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

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- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*
Workers' Compensation: As required by any applicable law or regulation.
Employer's Liability Insurance: must be provided in amounts not less than listed below:
Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.
Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for Products-Completed operations
$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.
Minimum Limits:
$1,000,000 each accident, combined single limit

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4. *Umbrella Insurance*. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:
$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:
$2,000,000 per claim or event
$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:
$2,000,000 per occurrence
$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without 30 days' prior written notice to the Vendor.

Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within 10 days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

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C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. SELF-INSURED RETENTIONS. Any self-insured retention in excess of $10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs

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operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work

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Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of $150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

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F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right

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also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...

Jeremy Schwartz
Title: Director of Operations & Procurement/CPO

Date: 10/27/2020 | 11:52 AM CDT

Approved:

DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...

Chad Coauette
Title: Executive Director/CEO

Date: 11/6/2020 | 10:35 AM CST

Dude Solutions, Inc.

DocuSigned by:
By: Brian Benfer
3EA8A039B93A40C...

Brian Benfer
Title: SVP of Sales

Date: 11/6/2020 | 10:31 AM CST

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RFP 090320 - Public Sector and Education Administration Software Solutions with Related Services

Vendor Details

Company Name:	Dude Solutions
Does your company conduct business under any other name? If yes, please state:	North Carolina
Address:	11000 Regency Pkwy #110 Cary, NC 27518
Contact:	Melissa Buchanan
Email:	melissa.buchanan@dudesolutions.com
Phone:	877-655-3833
HST#:	56-2174429

Submission Details

Created On:	Tuesday July 21, 2020 08:36:17
Submitted On:	Thursday September 03, 2020 10:10:22
Submitted By:	Kathryn Bennett
Email:	rfp@dudesolutions.com
Transaction #:	8a7239b5-02fa-4203-b5f1-1fc39aafc238
Submitter's IP Address:	73.153.115.208

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (and applicable d/b/a, if any):	Dude Solutions, Inc.	*
2	Proposer Address:	11000 Regency Pkwy #110 Cary, NC 27518	*
3	Proposer website address:	https://www.dudesolutions.com/	*
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Brian Benfer, SVP of Sales 11000 Regency Pkwy #110 Cary, NC 27518 (877) 655-3833 brian.benfer@dudesolutions.com	*
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Brian Benfer, SVP of Sales 11000 Regency Pkwy #110 Cary, NC 27518 (877) 655-3833 brian.benfer@dudesolutions.com	*
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Kelly Caputo, General Counsel 11000 Regency Pkwy #110 Cary, NC 27518 (919) 459-3163 kelly.caputo@dudesolutions.com	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Dude Solutions is a leading software-as-a-service (SaaS) provider of operations management solutions to education, government, healthcare, senior living, manufacturing and membership-based organizations. For nearly two decades, Dude Solutions has inspired clients to create better work and better lives. We combine innovative, user-friendly technology with the world's smartest operations engine, empowering operations leaders to transform the most important places in our lives. Today, more than 12,000 organizations use our award-winning software to manage maintenance, assets, energy, safety, IT, events and more. Company Facts Company Name: Dude Solutions, Inc. (DSI) Date Established: 1999 Markets Served: Clubs & Associations, Education, Government, Healthcare, Manufacturing Office Locations: Headquarters located at 11000 Regency Parkway, Ste 110, Cary, NC 27518 Phone number: 1-877-655-DUDE (3833) Employees: As of May 2020, we have 520+ employees Former Names: SchoolDude/FacilityDude State of Incorporation: Delaware	*

8	What are your company's expectations in the event of an award?	Dude Solutions intends to continue to closely support participating entities that are already using our products. Our Legendary Support Team and robust customer service organization will provide Sourcewell's participating entities with the product information and new services they need to keep their operations optimized. Similarly, our sales team is dedicated to expanding our roster of participating entities, offering exceptional value to Sourcewell's subscribers.	*
9	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Please refer to the attached financial disclosure form in the bid attachments section.	*
10	What is your US market share for the solutions that you are proposing?	In 2019, Dude Solutions surpassed $100 million in annual revenue. Dude Solutions' more than 12,000 clients and more than 800,000 active users span Federal, DoD, State agencies, local government organizations, and commercial entities.	*
11	What is your Canadian market share for the solutions that you are proposing?	Dude Solutions currently supports more than 550 clients across education, manufacturing, government and healthcare industries throughout Canada.	*
12	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No.	*
13	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	b) Dude Solutions will primarily use our own employees to implement the software we provide. Dude employees are responsible for training, onsite consultation and ongoing client support. Our sales and service force is primarily employed by Dude Solutions. In some instances, Dude Solutions will partner with third-party vendors to complete professional services such as facilities condition assessments or utility bill gathering and population. DSI leverages the below evaluation criteria when considering a subcontractor: Markets Served – Must align to DSI Markets (Education, Government, Healthcare or Manufacturing) Years in Business/Market – Must show a consistent track record in the market Geographical Areas Served – Must have regional or national footprint Number of Employees – Must have available resources to staff appropriately Revenue and Financial Stability – Must show a consistent track record of growth and profitability Subject Matter Expertise – Must provide industry knowledge and subject matter expertise Added Value Services Provided – Must provide a service that would be a value to DSI client base References – Must have quality references If a subcontractor passes the initial criteria above, prior to approval of a subcontractor, the subcontractor must meet the following: DSI Minimum Insurance Requirements DSI Payment Terms To become a DSI authorized Service Provider, Vendors have to have an active master service agreement in place with the DSI. Agreement is needed to by our Executive Leadership team.	*

14	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Dude Solutions has not identified any professional licenses that are required to be held by the organization in pursuit of the business contemplated by the RFP. We would like to describe the licenses and certifications related to our data storage, which provide clients with peace of mind regarding their information management and business continuity. Data storage certification and licensure Dude Solutions performs annual HIPAA and PCI Data Security Standards assessments. Dude Solutions is EU-US Privacy Shield registered. The data centers where Dude Solutions Customer data is stored and processed are audited under SSAE 18 Type 2 SOC 2, PCI-DSS1, GLBA and HIPAA standards annually. They are also ITAR and EU-US Privacy Shield registered. Third party security audits are conducted annually and include penetration testing and internal network security audits for all locations. Dude Solutions aligns with the requirements of the Family Education Rights and Privacy Act (FERPA). FERPA does not require or recognize audits or other certifications, so any academic institution that is subject to FERPA must assess for themselves whether and how its use of a cloud service affects its ability to comply with FERPA requirements. Dude Solutions makes the following contractual commitments that attest to its alignment: Dude Solutions commits to using Customer data only to provide organizations with our cloud services and does not mine Customer data for advertising Dude Solutions commits not to disclose Customer data except as the educational institution directs, as described in the contract, or as required by law Dude Solutions applications do not process, store or transmit sensitive student information or student educational records The CJIS standards are generally based on standard security best practices (ex. ISO 27001 and NIST) with which Dude Solutions is aligned. Dude Solutions application are not designed or intended to access CJI. Likewise, the services provided by Dude Solutions support personnel to implement and maintain our application do not require or even contemplate access to Customer systems processing CJI. Dude Solutions has mapped our controls and the controls of our partners to the NIST Cloud Computing reference architecture and associated controls as defined by the Cybersecurity Framework. Dude Solutions is committed to compliance with these NIST requirements and other relevant industry standards such as NIST 800-53, NIST SP 800-171, and FIPS 200.	*
15	Provide all “Suspension or Debarment” information that has applied to your organization during the past ten years.	Dude Solutions, Inc. has no past or present litigation, suspension or debarment.	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
16	Describe any relevant industry awards or recognition that your company has received in the past five years	In addition to recognition received for our rapid revenue and employee growth—and being recognized as one of the region's "Best Places to Work" over multiple years—Dude Solutions has garnered media attention in both local and national publications for our various products, client service, and partner relationships. Several of them are documented below: Automation World online published an article based on Pepsi Bottling Venture's success with our software platform. August 2017 MyTechDecisions.com featured our Event Publisher software, and its use by our client, Spartanburg Community College, in their Project of the Week on Tech Decisions. September 2017 HFM Magazine published an article on our CMMS solutions for hospitals featuring TheWorxHub product. June 2017 GovTech.com ran an article from the perspective of our client, Spalding County, GA, in its online outlet: Government Technology. June 2017 Worship Facilities Magazine featured a Dude Solutions' case study with NorthRidge Church on worshipfacilities.com. July 2017 Senior Housing News was inspired enough by our whitepaper, Including Maintenance within Your Community's Strategic Plan, to publish an article on the topic on its site: seniorhousingnews.com. September 2017 Dude Solutions' other awards include: Finalist in the Software category for the 2019 NC TECH Awards, North Carolina's annual statewide awards program recognizing innovation, growth and leadership in the tech sector. #13 on the 2019 NC Mid-Market Fast 40, our second year in a row on this list, which recognizes mid-size companies in North Carolina based on revenue and employment growth. Won the Triangle Business Journal Leaders in Diversity Award, recognizing companies that have shown an exceptional commitment to promoting practices that advance diversity in the workplace and in business leadership. A nod to the fantastic work our diversity committee has done in just one year of existence. And finally, one of our products, TheWorxHub, took home the Vision Award in the Smart Buildings/IoT/Software category.	*
17	What percentage of your sales are to the governmental sector in the past three years	Dude Solutions maintains approximately 1,500 government clients. Government sales have made up the following percentages of our annual revenue: Year Percentage of Revenue 2018 19% 2019 21% 2020 27%	*
18	What percentage of your sales are to the education sector in the past three years	Dude Solutions maintains approximately 5,800 education clients. Education sales have made up the following percentages of our annual revenue: Year Percentage of Revenue 2018 59% 2019 57% 2020 53%	*
19	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	Dude Solutions participates in AEPA, Omnia and Mohave cooperative purchasing agreements. We are happy to provide more information about the sales volumes of these contracts with the completion of an NDA.	*
20	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	None	*

Table 4: References/Testimonials

Line Item 21. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
City of London, Ontario, Canada	Khaled Shahata	(519) 661-2500 x7011	*
Western Washington University	Scott Dorough	(360) 650-2412	*
City of Mount Vernon, Washington	Chris Phillips	(360) 336-6214	*
Elk Grove Unified School District	Chris Bohrer	(916) 686-7745	
Teton County, Wyoming	Paul Cote	(307) 699-3496	

Table 5: Top Five Government or Education Customers

Line Item 22. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Stockton Unified School District	Education	California - CA	Project Services - Facility Conditions Assessment & PM Schedule Creation	Dude Solutions does not disclose the size of transactions for individual clients.	Dude Solutions does not disclose the size of transactions for individual clients.	*
Austin ISD	Education	Texas - TX	Project Services - Facility Condition Assessment	Dude Solutions does not disclose the size of transactions for individual clients.	Dude Solutions does not disclose the size of transactions for individual clients.	*
Delaware Office of Management and Budget - Division of Facilities Management	Government	Delaware - DE	Project Services - Facility Conditions Assessment & PM Schedule Creation	Dude Solutions does not disclose the size of transactions for individual clients.	Dude Solutions does not disclose the size of transactions for individual clients.	*
Baltimore City Public Schools	Education	Maryland - MD	Project Services - Facility Conditions Assessment & PM Schedule Creation	Dude Solutions does not disclose the size of transactions for individual clients.	Dude Solutions does not disclose the size of transactions for individual clients.	*
Palm Springs Unified School District	Education	California - CA	Project Services - Facility Conditions Assessment & PM Schedule Creation	Dude Solutions does not disclose the size of transactions for individual clients.	Dude Solutions does not disclose the size of transactions for individual clients.	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	
23	Sales force.	The estimated number of employees in the major sales-related departments follows. Please note that not all employees are represented in this list. Total Employees 520 Sales 145 Marketing 18	*
24	Dealer network or other distribution methods.	At this time, Dude Solutions offers cloud-based software that does not require a dealer or distribution network; these functions are performed internally.	*

25	Service force.	Total Employees 520 Client Services 135 Development 69 Product Management 40 IT 6 Accounting/Hr/Legal/Biz Ops/Other Support 57
26	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	For almost two decades, Dude Solutions has strived to be a leader in both Software-as-a-Service enterprise operations management systems and in client satisfaction. We work hand in hand with our clients every day to help them achieve their goals and create the best work of their lives. Our commitment is shown by the numbers: 12,000+ daily users 93% retention rate 97.5% customer satisfaction rating Net Promoter Score of 54 – ahead of all competitors and iconic companies such as Target, IBM and more Customer Support From the moment you start as a client, you'll have a dedicated representative there to help you every step of the way. And, that support doesn't stop when implementation is complete. As a Dude client, you will receive unlimited training and technical support for the duration of your subscription term. Your primary support will come directly from our headquarters in Cary, North Carolina. Our policies require that our toll-free technical support hotline be answered before the third ring. You'll always reach a live representative when you call, and we answer 98% of all email questions within one hour. We also aim to resolve our clients' issues within two hours. And, there are never any additional charges or support contracts involved. Whether you have technical questions, need advice, need to get a new hire trained, or need to quickly run a report before your upcoming board meeting, help is only a call, e-mail or chat away. Lifetime support for all active product subscriptions includes: Toll-free telephone support by dialing (877) 655-3833, Monday to Friday 8:00 AM – 6 PM ET Friendly representatives will answer the phone within 3 rings and direct you to a knowledgeable team member who can help Send us an email – we answer 98% of our support emails within 1 hour Reach us instantly through our software with live chat during business hours Best practices webinars and podcasts which share new trends, popular reports, and tips Training review webcasts are a great resource for clients who need a refresher after their initial training, or for new employees that could benefit from a training session DSI shall use commercially reasonable efforts to make the Service available 99.9% for each full calendar month during the Term, determined on a twenty-four(24) hours a day, seven (7) days a week basis (the "Service Standard"). Service availability for access and use by Subscriber(s) excludes unavailability when due to: (a) any access to or use of the Service by Subscriber or any Account User that does not strictly comply with the terms of the Agreement or the Documentation; (b) any failure of performance caused in whole or in part by Subscriber's delay in performing, or failure to perform, any of its obligations under the Agreement; (c) Subscriber's or its Account User's Internet connectivity; (d) any Force Majeure Event; (e) any failure, interruption, outage, or other problem with Internet service or Non-DSI Service; (f) Scheduled Downtime; or (g) any disabling, suspension, or termination of the Service by DSI pursuant to the terms of the Agreement. "Scheduled Downtime" means, with respect to any applicable Service, the total amount of time (measured in minutes) during an applicable calendar month when such Service is unavailable for the majority of Subscribers' Account Users due to planned Service maintenance. To the extent reasonably practicable, DSI shall give at least eight (8) hours prior electronic notice of Service maintenance events and schedule outside the business hours of 6:00 AM - 10:00 PM EST. DSI shall use reasonable efforts to ensure the availability of the API in accordance with the service levels described in Section 3.3(a). Notwithstanding the foregoing, DSI does not guarantee any required uptime, performance, or integrity of any product, application or service that integrates with and/or otherwise utilizes the API (including, without limitation, any such product, application or service developed by Subscriber). Moreover, DSI shall not be liable to Subscriber or any Third Party for the unavailability of the API or the failure of the API to perform in accordance with its specifications. Subscriber shall not represent to any Third Party any availability or performance levels with respect to the API. Dude Solutions is transparent regarding our systems availability. We publicly post our availability site (http://status.dudesolutions.com/) to provide customers with access to our historical availability metrics and real-time status.

27	Identify your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Dude Solutions is willing and able to provide products and services to all Sourcewell participating entities in the United States. Our team completes implementation for more than 500 clients and 2,000 products annually. Our 500-person global team supports more than 12,000 clients. Our capacity to quickly respond to Sourcewell members' needs is more than adequate, thanks to our Agile approach to development and implementation. For more than 20 years, we have demonstrated a proven track record of building, migrating, and managing a wide variety of enterprise COTS software solutions in the cloud. Our strengths as a partner revolve around our core expertise with product- and user-centric software development. Dude Solutions bolsters this focus with best practices in modern software development lifecycle, including ongoing commitment to Agile methodologies and beautiful UX design.	*
28	Identify your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Dude Solutions maintains an office in Toronto, Ontario and provides services to more than 500 Canadian clients. Data storage for Dude Solutions products is hosted in the United States and complies with applicable security laws for government agencies in Canada and abroad. Dude Solutions provides software to clients in the United States and nine other countries around the world. We are fully capable of executing contracts and providing services for Canadian entities within both government and education sectors.	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Dude Solutions does not have geographic limitations that would prevent us from serving any area of the United States or Canada that is adequately provisioned with internet service to deploy our software.	*
30	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Dude Solutions will participate in all entity sectors, including government, education and not-for-profit.	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	None. Dude Solutions offers virtual product implementation that would allow us to deploy our SaaS systems in any location with internet access.	*

Table 7: Marketing Plan

Line Item	Question	Response *	
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	When a DudeSolutions account executive identifies a client or prospect that is considering a solution and also mentions they are planning to use an RFP process, the employee will introduce Sourcewell as an option that would be of benefit to the client and/or prospect. This happens in highly customized, one-to-one conversation between the prospect/client and the DudeSolutions employee. Because most of our clients and prospects are already Sourcewell members, we primarily need to remind them of the benefit that Sourcewell provides at the right point in their buying process. Dude Solutions intends to provide a website section dedicated to our valued cooperative purchasing partners, along with co-branding that will clearly identify Sourcewell as a procurement mechanism. Further, our marketing team is providing opportunities for Sourcewell to directly reach potential clients through event sponsorship and access at Dude University. Collateral provided at Dude U, our annual user conference, will route prospects toward Sourcewell as a purchasing platform.	*
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Dude Solutions uses a business intelligence tool called Qlik to power our marketing insights across channels and programs to best understand what is working most effectively in our strategy, programs, and mix. Qlik pulls data from SalesForce, Marketo and Google Analytics consolidates and allows a wide range of analytics across the prospect and client journey. This information allows us to make smart adjustments in our programs and approach.	*
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	Dude Solutions would expect that Sourcewell will continue to represent our product lines, aligned to support the Public Sector and Education Administration Software Solutions with Related Services contract, as well as update their website with our marketing collateral, sponsor Dude University 2021 and potentially help us drive acquisition to events that we host, reaching thousands of governmental, higher education, K-12 education, nonprofit, tribal government, and other public agencies located in the United States and Canada who are potential clients. Dude Solutions will continue to educate our national education and government vertical sales teams on the awarded contract (supporting contract documents, 60K member base, etc.) and continued education and value proposition using their contract offers to our entire public sector client base. We will be creating a landing page on our website to represent our partnerships, to include contracts awarded, and Sourcewell will have a microsite dedicated to the contract (and all supporting documents and a link back to your landing page). We will also plan to support/sponsor your annual event, H20, in 2021.	*
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Dude Solutions does not currently offer our products and services through an eCommerce and/or online purchasing platform.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	

36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Dude Solutions has a set methodology which is being used in thousands of organizations. We have developed a system that is easy to use and cost-effective. Topics we will cover could include setup of the system, training of all personnel, data conversion, and a step by step strategy for the transition from the current system to the proposed solution. Training is standard and included in the annual cost of our software, with the exception of our Professional Service Packages. These packages offer more in-depth training and custom classroom topics that may fall outside the scope of a traditional learning path. Training is tailored to each customer based on their system configuration. Standard training is also unlimited for our valued clients. Our internal client support and implementation team members provide training. We do not outsource this service. Dude Solutions utilizes a web-conferencing application allowing us to share desktops and view the same information between parties. Because all of Dude Solutions' modules/applications are totally on-demand, we are able to view the same information the client sees simultaneously. Dude Solutions has several approaches to training that ultimately are determined by the client. Dude Solutions provides virtual classroom training sessions as well as individual sessions. Clients can utilize a "train the trainer" approach. This includes training both during implementation as well as any ongoing training after your product goes live. We have the following primary mediums for delivering training: Virtual Classroom Training This method is conducted via internet and teleconferencing mediums. This allows you to go at your own pace through the implementation journey. Training curriculum and schedules are kept up to date on our help site. You will also benefit from building your industry network and hearing best practices from other clients in these one to many training sessions. Virtual training is an unlimited resource for all clients. Online Help Content Available around the clock, our help site includes guides and videos to assist clients with their Dude applications. It is also a great place to check for regular product enhancements and updates based on client input. Virtual Consultation Packages If purchased, Dude Solutions will provide remote consultation for your organization to help you with everything from data cleanup and migration from legacy solutions, deep dive assessment of current workflow and configuration to end-user training and go-live support.	*
37	Describe any technological advances that your proposed products or services offer.	Dude Solutions is a leading provider of software-as-a-service (SaaS) solutions. Our software suite is 100% cloud-based and includes products for: Community Development Work & Asset Management Energy Management Technology Management Event Management Capital Forecasting Safety Management In addition to these products, Dude Solutions also offers these professional services (availability depends upon products purchased): Onsite training programs Facility condition assessments Dude University, our annual user conference Professional data services, including data collection and import Integration support Asset Essentials There's one big problem with relying on paper and desktop programs: They're not reliable. Without the insurance of cloud-based software, our potential clients are playing a risky game of "here today, gone tomorrow." Paper and desktop programs are time-consuming and often disorganized. Dude Solutions offers modern, cloud-based software that helps our clients make measurable progress toward maintenance, asset management and work order processing goals. No more confusion thanks to better communication. No more backlog thanks to preventive and predictive planning. No more work falling through the cracks or going undocumented thanks to software accessibility in the office and in the field. Asset Essentials offers cloud-based software that can be easily accessed in the office and on mobile devices, no matter where your team needs access. Asset Essentials allows users to use a single, intuitive dashboard and leave their headaches behind. Capital Forecasting and Predictor	

Dude Solutions offers two capital planning systems for our valued public-sector clients: Capital Forecasting and Predictor. Both are integrated with our flagship platform, Asset Essentials, offering robust reporting and predictive tools for our clients' future growth.

Everything in our clients' buildings will need to be repaired and, eventually, replaced; but no entity has an unlimited budget. With Dude Solutions' software, clients gain certainty about their valuable assets, along with the ability to predict and prioritize maintenance based on real-time data.

Clients level the spikes in their budgets, prevent financial surprises and justify requests for resources, all from a central solution. Use your insights to create more visibility into the work that matters and steer your team toward the work that will make the most impact. Our user-friendly interface helps clients create the most precise projections for today, tomorrow and decades in the future.

For clients that need even more robust capital forecasting capabilities, the Predictor Platform brings unparalleled power in life-cycle modelling, enabling teams to tell the story of their asset future to stakeholders more efficiently than ever before. Predictor optimises service-level outcomes and captures capital expenditure with industry-specific algorithms that accurately predict the future behavior of assets. Clients are empowered with the data-driven evidence to make better decisions about their assets. *

Energy Manager

Educational institutions, governments and not-for-profits often find that utilities drain resources. Utility costs are often the most overlooked as a source of cost savings. Enter Dude Solutions' Energy Manager, a new way to approach energy consumption, clarity and control.

Gather detailed information on current utility spend to identify possible billing errors, centralize billing and meter readers, and more. With enhanced visibility, clients can uncover areas for improvement and gain a deeper understanding of your energy consumption. Create unlimited reports for compliance, show the progress of energy efforts and more all from a user-friendly solution.

SmartGov

Many local jurisdictions still rely on paper-based processes and inefficient legacy on-premises systems to manage business needs like permitting, business licensing, inspection, code enforcement, plan review, parcel and fee management. With complex and time-consuming tasks like permitting, the lack of a streamlined system often leads to poor communication, longer processing times, disgruntled citizens and bad public relations.

Dude Solutions SmartGov™ lets clients manage all of their essential processes tied to permitting, licensing, inspections and code enforcement in a single web-based system that is hosted in the Amazon Web Services (AWS) cloud.

SmartGov improves back-office efficiency while increasing citizen engagement, both of which drive business revenue.

Event Manager

There's a lot to think about when allowing community groups to use your facilities. Permissions, setup, personnel, billing and more — these are only a few things that fall in our clients' laps. There's also the fear of facility damage and the frustration of scheduling mix-ups.

Proper event management software makes scheduling and coordination simple for both you and event requesters. With the right tools, everyone can win. Using Event Manager™, a centralized, user-friendly calendar system, you can manage usage requests and requirements, track scheduling and account for expenses. Plus, clients can simplify the billing process and start recovering costs.

Integrated Suite

Dude Solutions offers an integrated platform between energy, events, assets and capital planning that reduces costs and increase productivity with data-rich reports. This integration capability allows our clients to more strategically manage, maintain and invest in their school and government facilities.

38	Describe any “green” initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Dude Solutions can provide support for sustainability initiatives through a lower-impact implementation protocol. Our systems traditionally use paperless technology to prevent waste. Communication with The Dude throughout your implementation process will be mostly electronic to eliminate the need for paper storage and recycling. Further, maintenance of our software relies almost exclusively upon electronic communication, limiting the organization's need for paper requests. Additionally, employees at The Dude are encouraged to consider the environmental impacts of their travel arrangements for any onsite services. Finally, The Dude offers solutions that are, at their core, designed to improve the social and economic vitality of your community by maximizing the value of each taxpayer's contribution. The very nature of our services—energy management and reporting—delivers the sustainable effects that an organization deserves for furthering its own sustainability initiatives.	*
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	As a SaaS product, Dude Solutions' systems are not rated for eco-friendliness or green/sustainability factors. However, we have pursued internal efforts to become a "greener" company. Dude Solutions' guiding principles lead our clients toward more sustainable approaches in their everyday operations. In general, our software-as-a-service systems allow clients to "go paperless" with more frequency, reducing the environmental impact of facilities and energy management. Our solutions are designed with efficiency and sustainability in mind, and we carry those principles into our own everyday work. Internally, Dude Solutions employees are encouraged to pursue sustainability efforts through our Green Dude initiative. This internal team of sustainability-oriented employees strive to bring awareness of our impact on the environment and inspire positive change through education. The Green Dude team is guided by these principles: Educate Dude Nation on sustainability best practices. Partner with local organizations to provide volunteer opportunities. Introduce Dude employees to energy saving options, both at work and at home. Strive to minimize waste both within our group and Dude Nation In the past year, the Green Dude has hosted an Arbor Dude Fair, which brought educators and vendors from throughout the region to our Cary, North Carolina, headquarters. We partnered with organizations such as CompostNow, The Produce Box and Trees for the Triangle to promote education and volunteerism locally. In addition, Dude Solutions facilities are equipped with sustainable equipment such as movement-sensitive light sensors, which prevent energy waste in unoccupied buildings. Individual employees are encouraged to responsibly consume energy by turning off and unplugging their equipment at the day's end.	*
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	The principal beneficial owner of Dude Solutions, Inc. is Clearlake Capital Group, L.P. which is certified as an MBE as evidenced by the attached certificate.	*
41	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	There are a million critical moving pieces inside your organization that need to work at their best to keep our clients' operations running smoothly. Their reality is a patchwork of tools, tech and talent that's tricky to manage. And our clients' role has evolved, too. As they are overseeing the day-to-day, they're also being asked to see into the future. Dude Solutions is software for smarter operations. With over 12,000 happy clients and 20 years of experience, we serve as our clients' trusted partner. Offering a connected suite of solutions to give our clients visibility into every aspect of your operations. We provide predictive insights to help users anticipate what actions to take next. With industry-focused expertise, legendary support and a proven track record of success, we meet our clients where they are today to prepare them for tomorrow. Dude Solutions accomplishes this through a commitment to being a trusted partner, offering a connected suite of software products and creating the predictive insights decision-makers need. Deep, industry-focused expertise — and a proven track record of success We know our clients' world inside and out. From the energy that powers your spaces to the equipment, tools and assets crucial to helping your organization do its best work. We’ve spent the last 20 years helping over 12,000 clients transform their operations.	

		End users benefit because we work closely with front-line staff, from implementation to impact. We guide these teams to quick wins to help them gain control of their operations from day one. The Dude is always beside our clients! We offer legendary support, an ever-growing knowledge base, the annual Dude University conference, ongoing training and a dedicated team committed to your success. Clients are never alone in their day-to-day work or in their mission to improve operations. Dude Solutions understand the nuances of the changing operations landscape. And because we've been down this path with clients 12,000 times before, we know what it takes to succeed. We work with our clients to identify and implement the right solutions to help them reach their goals. Then we help clients benchmark, measure and share the results, all while ensuring every member of the operations team feels confident and empowered to harness the power of our solutions. Integrated solutions to give you visibility into every aspect of your operations When every aspect of our clients' operations talks to each other, they gain powerful insights that shape the way they work. We know the journey to a fully integrated ecosystem doesn't happen overnight. So, we meet clients wherever they are to create a strategy and chart a course to connectedness. Front-line users receive a single, intuitive view into every aspect of their operations — from the assets they manage to the energy their facilities consume. This helps them identify opportunities for improvement, spot issues before they become headaches and understand what actions to take next to make your operations more efficient. The Dude system also helps decision-makers identify trends, create forecasts and plan for the future by bringing together important information from across an organization. This improves collaboration among their teams. Clients can leverage data to make more informed decisions about where to shift focus or allocate budget. We empower clients with a unified view into the state of their world, so they can confidently make the case for more resources. Intelligence that transforms work and shows a clear path to the next action We make sense of the information already inside an organization — and benchmark it against other, similar organizations — to help clients plan what to do next. Users can anticipate and act on issues before they arise, with insight into the actions that drive the best outcomes. We help front-line users spend more time doing the work they want to do and less time putting out daily fires. Dude Solutions' systems bring together hundreds of data points from across an organization into an intuitive, actionable dashboard. We help clients identify opportunities for improvement across every department, including tech, electrical, plumbing, facilities, utilities, events. Users are empowered with insights and reports to mitigate risks, anticipate costs and effectively manage workload. Dude Solutions also uses our deep knowledge of the government and education sectors, along with the data we've collected over 20 years, to create powerful predictive models. This allows clients to reduce costs and downtime and avoid unplanned asset, resource or monetary expenses. Our systems help clients more accurately forecast their capital needs for tomorrow — and the day after. Our SaaS offerings are powered by a data platform that never stops learning and improving.	*

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	

42	Do your warranties cover all products, parts, and labor?	DSI's subscription agreement includes the following warranty: (a) DSI represents and warrants that during the applicable Subscription Term that the Service will perform materially in accordance with the applicable Documentation. For any breach of this warranty in Section 7.2(a), Subscriber's exclusive remedy and DSI's entire liability shall be as described in Section 6.3 (Termination for Convenience). (b) DSI represents and warrants that all such Professional Services shall be performed in a professional and workmanlike manner in accordance with generally accepted industry standards. For any breach of this warranty in Section 7.2(b), Subscriber's exclusive remedy and DSI's entire liability shall be the re-performance of the applicable Professional Services. (c) EXCEPT AS EXPRESSLY STATED HEREIN, THE PARTIES MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES OR ANY CONTENT. PARTIES DISCLAIM ALL REPRESENTATIONS OR WARRANTIES THAT: (I) THE USE OF THE SERVICES OR API SHALL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (II) THE SERVICES OR API SHALL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS; (III) ANY STORED DATA SHALL BE ACCURATE OR RELIABLE; (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY SUBSCRIBER THROUGH THE SERVICES SHALL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS; (V) ERRORS OR DEFECTS SHALL BE CORRECTED; (VI) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICES AND ALL CONTENT IS PROVIDED TO SUBSCRIBER STRICTLY ON AN "AS-IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY THE PARTIES.	*
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	No.	*
44	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	This is not applicable for software-as-a-service.	*
45	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	This is not applicable for software-as-a-service.	*
46	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	This is not applicable for software-as-a-service.	*
47	What are your proposed exchange and return programs and policies?	DSI's subscription agreement allows for Termination for Convenience in the Initial Term of the software subscription as follows: Subscriber may terminate this Agreement (including its Service subscription and Account) at any time for convenience by providing DSI forty-five (45) days' prior written notice to the following email address: notice@dudesolutions.com. Upon termination by Subscriber pursuant to this Section 6.3, Subscriber may request in writing and be granted a refund. If DSI receives Subscriber's written notice of termination during the Initial Term, DSI shall refund to Subscriber any prepaid Subscription Fees of the Initial Term Subscription determined based upon the number of full months remaining in the Initial Term (based upon the effective date of termination. For avoidance of doubt, no refund shall be granted during a Renewal Term or with respect to Professional Services rendered.	*

48	Describe any service contract options for the items included in your proposal.	The standard implementation line items and ongoing support, with the exception of any additional Onsite Consulting Packages, are included in clients' annual subscription at no additional cost. Dude Solutions does not limit access to support resources or offer tiered support options. As SaaS customers, clients will receive the following support as a standard service. Any optional services will be covered in individual clients' proposals. Lifetime support for all active product subscriptions includes: Toll-free telephone support by dialing (877) 655-3833, Monday to Friday 8:00 AM – 6 PM ET Friendly representatives who will answer the phone within 3 rings and direct you to a knowledgeable team member who can help Email support – we answer 98% of our support emails within 1 hour Instant help through our software with live chat during business hours	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
49	What are your payment terms (e.g., net 10, net 30)?	Subscriber shall, on or before the commencement of the Initial Term of a Service subscription, pay to DSI the Annual Fee for such Service subscription. Thereafter, DSI shall invoice Subscriber for each applicable Annual Fee at least sixty (60) days prior to the commencement of the applicable Renewal Term. Subject to the terms of the Order Form and DSI's commercial subscription agreement, Subscriber agrees to pay all Annual Fees no later than thirty (30) days after the receipt of DSI's applicable invoice. Subscriber is responsible for providing complete and accurate billing and contact information to DSI and notifying DSI of any changes to such information. Payment for professional services is upon completion of services or milestones, if applicable. We do not offer a discount for prompt payments.	*
50	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	This is not applicable to SaaS.	*
51	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders.	Dude Solutions will present the client with an Order Form outlining the services to be provided thereunder, including any addenda and supplements. Upon the participating entity's electronic or written acceptance of the Order Form or issuance of a PO referencing such Order Form, the participating entity agrees to be bound by the terms of the Order Form. Dude Solutions will issue an invoice to the client with net 30 payment terms. Since all deals flow through CRM, we are able to easily report on all sales to a specific client or partner.	*
52	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	We do accept P-cards as a form of payment at no additional cost to our clients.	*

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as desribed in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *	
53	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Dude Solutions offers software-as-a-service as annual subscriptions and services which support the set up and use of the software. Dude Solutions will make a catalog of its software offerings and services available to Sourcewell, and the following discounts shall apply to the catalog list price: Software subscription discount: 21% Activation/Set up Fee Discount: 6% Vendor Services: 3% DSI Service: 5% Dude Solutions, Inc. periodically reviews and updates catalog price books in response to the market. Such updates may include price adjustments and the addition of new product and/or service offerings. Proposals generated after a new price book is filed will use the new price book. Any outstanding proposals issued may be honored for a reasonable period of time to accommodate a participating entity's internal procurement processes. Dude Solutions maintains the right to increase subscription fees and other applicable fees and charges in connection with each renewal term, but such renewal fees shall not exceed the pricing on file with Sourcewell at the time of a participating entity's subscription renewal.	*
54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Dude Solutions will offer the following discounts off of its catalog list price: Software subscription discount: 21% Activation/Set up Fee Discount: 6% Vendor Services: 3% DSI Service: 5%	*
55	Describe any quantity or volume discounts or rebate programs that you offer.	Not applicable	*
56	Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.	This does not apply to DSI's business model at this time.	*
57	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	This does not apply to DSI's business model at this time.	*
58	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	This is not applicable for software-as-a-service.	*
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	This is not applicable for software-as-a-service.	*
60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	This is not applicable for software-as-a-service.	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments	
61	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.		

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
62	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	Dude Solutions holds itself accountable to high internal standards. Dude Solutions utilizes a quote-to-cash process within its CRM system to manage all order transactions. The discount schedule is entered into the CRM system, making it easy for sales reps to include Sourcewell and applicable pricing on client quotes. Sales reps select Sourcewell as the purchasing partner and discounts are automatically applied to the products and services included in the quote presented to the participating entity. When an order is closed, DSI's Order Operations team confirms contract pricing. when processing the order. An agreement is created for each order reflecting the applicable purchasing partner used by the client and this agreement flows to DSI's billing team for an invoice to be issued. Payments are recorded against this agreement, allowing DSI to efficiently report on transactions each quarter.	*
63	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	DSI proposes an administrative fee of 2% Vendor's sales under the Contract. This fee will be reported and issued for paid transactions received each calendar quarter.	*

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *	
64	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Asset Essentials Asset Essentials is a cloud-based maintenance platform developed for education maintenance operations management, whether your maintenance needs are daily, monthly or annually. With our software, users can initiate, assign and track the progress of maintenance work orders; manage assets and equipment; develop advanced workflows with preventive maintenance (PM) scheduling; utilize Internet of Things (IoT) technology for predictive maintenance (PdM); create steps for audit and inspections; upload and categorize safety program documentation; manage work order parts; and assist with purchasing/requisition management. In addition, Asset Essentials has functionality for document management, reporting and mobile capabilities. Workflow Management • Work order request management • Automatic request routing • Location/asset-based work orders • PM and PdM calendar scheduling • Custom fields for organization-specific work order information • Job planner/calendar view for technicians • Work order prioritization Work Tracking & Monitoring • Ability to bulk update work orders • Automated email notifications for work assignment based on asset, work type, location and more • Automatic work order scheduling based on PdM • Audit trail and log tracking • High-level project tracking Equipment/Asset Management • Cost tracking and repair history for total cost of ownership (TCO) decision-making • Calendar/meter reading tied to PM/PdM scheduling	

• Supplier/vendor tracking at asset level

Mapping
• Base map of your institution's geographic area
• View and manage your work orders on a map view
• Create work orders and visually pin them to their appropriate location
• Switch between street and satellite views
• Filter work orders by priority, status, work category and more

GIS Asset Management
• Holistic view so you can effectively manage work and assets inside and outside the building
• Manage your work orders, GIS assets and maintenance activity in one place
• Leverage ESRI ArcGIS integration to manage and maintain GIS assets
• View your upcoming workload spatially to measure and plan routes
• Prioritize work using insights from your GIS data
• Connect work orders to your GIS assets
• Update work in real time on iOS and Android devices (see mobile app and version requirements)

Audits & Inspections
• Create steps for audit and inspection completion
• Access easy-to-use Audit & Inspections feature in mobile app
• Attach notes and photos to audit and inspection steps

Safety Programs
• Upload and categorize safety program documentation
• Assign team member to audit documentation to ensure it's current and compliant
• Attach documentation to work orders and preventive maintenance
• Collect e-signatures to prove acknowledgment when safety documentation has been viewed

Work Order Parts & PO Management
• Work order parts inventory, including physical count
• Just in time (JIT) inventory
• Purchasing/requisition management

Reporting & Analysis
• Predefined dashboard with KPIs, reports and charts
• Budget tracking based on historic data and projections
• Print/export to Excel, create PDF for reporting
• Data analyzer tool

Mobile App
• Supported on iOS and Android devices (see version requirements)
• Download free from Apple App Store or Google Play
• Bar code and QR code capabilities for more efficient work order, asset and parts management

Document Management
• Attach documents to assets and work orders
• Supported formats include PDF, Microsoft Word, Excel, plain text

Asset Essentials Inventory
Asset Essentials Inventory is an inventory management solution that allows you to track your inventory & supplies through streamlined processes for part transactions, work order parts management, purchase ordering and cost analysis.
• Detailed Part information
• Barcoding
• Transactional Part History
• Inventory Location Management
• Work Order Parts Management (Reactive and Preventive)
• Purchase Order workflows
• Physical Counts
• Reporting
• Notifications: when a part reaches reorder point or minimum quantity

AE – Connector Toolkit
The Connector Tool is an on-premises tool installed on your in-house device that assists in batch imports and exports of CSV files. A Client Services Center consultant will help guide you through the installation and startup process plus a sample file demonstration. All you need to take this training course is an Internet connection.

Asset Essentials – Safety

Safety Programs
• Upload and categorize safety program documentation
• Assign team member to audit documentation to ensure it's current and compliant
• Attach documentation to work orders and preventive maintenance
• Collect e-signatures to prove acknowledgment when safety documentation has been viewed

MaintenanceEssentialsPro
MaintenanceEssentials Pro™ is the leading cloud-based facilities management solution for education operations that simplifies the work order and preventive maintenance process, helping you streamline work order request generation, completion status tracking and reporting. MaintenanceEssentials Pro allows you to create, assign and manage recurring maintenance tasks more efficiently and be a better steward of your institution. In addition, MaintenanceEssentials Pro has functionality for mobile capabilities.

Corrective Maintenance
• Submit work order requests from anywhere
• Automatic request routing
• Work order ranking and prioritization by project, location and budget
• Include budget codes, projects, equipment, labor and purchases with work orders
• Attach files to work orders for quick reference

Preventive Maintenance
• Recurring maintenance and PM tasks
• Cost reduction by 2 to 10 cents a square foot
• Reduce emergency work orders by 60%
• Interactive calendar for resource scheduling
• Equipment tracking

Mobile Applications
• Easy access to work orders
• Accurately track time-on-task
• Attach files to work orders from your mobile device

Operations Dashboard
• Business Intelligence (BI) reporting directly from Dude Platform
• Benchmark your progress
• Compare your performance to others in your region
• KPIs automatically generate into an executive PowerPoint format

Inventory Direct
Inventory Direct is a cloud-based inventory management solution that tracks all inventory transactions. Streamline the process of requesting, ordering, and tracking supplies and tools and allocating supplies to upcoming work requests.

Productivity
• Manages inventory items by various category types
• Allows inventory to be issued to a location, project, person, or work order
• Enables users to batch approve and issue inventory items to a specific request
• Includes catalog for easy viewing and selecting inventory items to purchase
• Integrates with MaintenanceEssentialsPro to track inventory items required for preventive maintenance tasks

Communication
• Features online requests for inventory and supplies
• Automatically emails requesters their request receipts
• Sends email notifications on what was approved, denied, or on back order
• Complete transactions of issue, receipt, and other tasks with any handheld device

Budget
• Tracks all material transactions such as receipts, returns, and adjustments
• Assigns stock pools to see what is low and replenish as needed
• Adjusts cycle counts and tracks why changes occur in re-inventories

Reporting & Documentation
• Displays list of items that need to be reordered, including supplier and suggested reorder quantity
• Tracks detailed information such as unit of issue, contract status, and tag number
• Generates detailed reports and graphs

Connect Authenticate
Connect Authenticate is an Active Directory Federation Services Single Sign-On (ADFS SSO) solution that allows users to securely access Dude Solutions applications by using the same secure credentials they use to connect to their organization's network. Users connect to their organization's network, and the network

then authorizes them to use the Dude Solutions products with the use of Security Tokens. When a user accesses a Dude Solutions product, they will be redirected to another site that you determine and will provide their designated network metadata to log in, eliminating the need for a Dude Solutions-specific password.

Key features:
• Network Connection
• Configuration Portal
• User Authentication Process
• User Management
• Authorization
• Documentation

Critical Alarm Automation
Critical Alarm Automation is a building automation alarm solution that integrates with MaintenanceEssentialsPro. Automatically filter 'nuisance' alarms, generate work orders within MaintenanceEssentialsPro, and escalate critical alarms to appropriate personnel.

Productivity
• Provides intelligent filtering, reducing erroneous alarms
• Includes template to auto-fill work orders with information such as building, craft, trade, and specific equipment
• Automates work order generation in MaintenanceEssentialsPro, reducing data entry
• Colors critical alarm work orders green to help with searching and reviews
• Verifies response to alarm notifications

Communication
• Escalates critical alarms to next person in line, if not reviewed within specific timeframe
• Utilizes ASHRAE BACnet or Tridium NiagaraAX platform standards and/or standard email
• Integrates with MaintenanceEssentialsPro for efficient data exchange

Reporting & Documentation
• Tracks and documents all critical alarms within the system
• Generates customizable, detailed graphs and reports illustrating alarm history

Capital Predictor
Capital Predictor is a cloud-based budget projection solution developed to create an accurate list of uture maintenance needs. Users can accurately allocate resources for future work orders decades in advance by inputting information on existing asset lifecycles, facility condition assessments (FCAs) and work order history. This data is used to generate reports for key stakeholders to prove the value of work and the need for funding.

Prediction Modeling: Apply service-based life cycle degradation paths and proven proprietary algorithms at component, specific asset, asset type or asset class level, enabling accurate forecasting of the health of your entire network; monitor the effects of maintenance and treatments applied.

Live Data & Reporting:Improve efficiency exponentially by sharing accurate, digestible and up-to-date asset management reporting outputs — no training or software installation required.

Visualization Integrations: REST APIs and data connectors integrate seamlessly to GIS, BI and analytics engines to bring your asset management plans to life and engage your audiences. Integrate multiple input sources and create a unified, informed story.

Comparison Reporting: Forecast changes to future condition and service levels of every asset in your portfolio given decreased, fixed or increased funding. Inform capital investment decision-making to maximize asset health with accurate scenario modeling (up to 50 years) across treatment types, intervention points, funding levels required and more.

Energy Manager
Energy Manager is a cloud-based platform that creates unprecedented clarity into your utility bills and identifies areas of cost and consumption savings while improving your facility's conservation programs. With your organization's utility bills centralized, savings opportunities are easily visible by identifying possible billing errors and low performing buildings. In addition, Energy Manager moves beyond traditional utility bill accounting to enable true energy management, including measurement and verification of capital projects, near real-time utility data collection and engagement of building occupants, while seamlessly setting the stage for data-driven discussion on how energy is used in your portfolio and how to use it more efficiently. *

• Track and monitor utility bills and compare usage data
• Quickly view high-level trends, cost and usage, view historic utility data and track ENERGY STAR rating with ENERGY STAR Sync via Dashboards
• Configurable views, reports, searches and graphs
• Report on use/cost, carbon emissions, budget data, avoided cost and weather
• Build custom reports based on utility bill information, use and cost rankings, and historical use/cost
• Using IMPVP standards, measure and verify use and cost savings while taking weather and relevant factors into account
• Create custom walkthroughs and steps to perform
• Create and manage Special Event Checklists and/or shutdown procedures
• Create O&M tickets to track energy maintenance issues
• Create Capital Projects to track and measure against actual usage

Energy Star Sync
Create an ongoing sync of your data from Energy Manager's database to Energy Star to see how you stack up with similar facilities and for compliance purposes, if needed.

Public Billboards
Ability to broadcast select reports and/or KPIs to external stakeholders and/or the community to show progress on ongoing energy efforts and show stewardship of valuable tax dollars. These are designed to be shared on public kiosks, large screens, computer monitors, tablets and more.

Utility Bill Population
Dude Solutions team populates your bill data into your Energy Manager database, thus reducing the amount of staff time needed to type or upload bill data and free you up to focus on more strategic items.

Utility Bill Population & Management
Dude Solutions team populates your bill data into your Energy Manager database, thus reducing the amount of staff time needed to type or upload bill data and free you up to focus on more strategic items. In addition to the populating your bill data, the Dude Solutions team will investigate any anomalies on the client's behalf to correct errors and prevent future mistakes made by utility providers.

Interval Data Recording & Management
Ability to see near-real time data (15-minute intervals of the day prior, or whatever the utility can provide) on your organization's usage. Identify and act upon waste before it appears on next month's bill and affects your budget.

EventEssentials Pro
EventEssentials Pro is a cloud-based collaborative event management solution that simplifies the facility scheduling and community use process, providing your educational institution with tools to process online payments and data to benchmark progress, plus the best practices coaching necessary to guide your team to success. It includes:
o Facility Scheduling
o Recoup approximately $18 per student by implementing a cost recovery program and mproving coordination of support resources
o Automate the scheduling process and eliminate scheduling conflicts, ultimately saving your staff's time and maximizing your building's efficiency
o Community Use
o Improve customer service by automating communication and feedback with community members using an online portal for all event requests
o Recover $5 per student annually and 10 minutes per event by improving efficiency and communication with external groups
o Online Payments
o Save valuable time and money through a new online payment system. Online payments improve collections by 10% and save $2 per student per event.

TripDirect
Dude Solutions Trip Planning is a cloud-based trip planning and management solution that streamlines the educational trip workflow process. The solution is accessible via connection to the internet (see Technical Requirements). Each user will be given access via Dude Solutions Single Sign-On (SSO) credentials. From the central dashboard, users can manage requests, track trip-related costs for budget support, automate notifications for departments and provide reporting assistance.

Trip Management
o End-user trip request submission with status updates
o Automated routing for trip requests to approval managers
o Print trip consent forms
o Manage driver and vehicle scheduling
o (Optional) score drivers by hours, overtime and tenure

Budget Support
o Support budgeting data
o Track trip-related costs, including:
Driver wages
Mileage
Purchase

Event Manager
Event Manager is a cloud-based platform that helps you schedule, organize and promote all of your organization's events from start to finish in one system. From the time a facility request comes in to when you're running reports on the event afterward, Event Manager is your easy-to-use, centralized system for every task. The solution simplifies the approval process for facility usage requests, streamlines staff workflows to drive efficiencies, eases the promotion of events and facilities to amplify community engagement, and organizes billing to maximize cost recovery, all while compiling data you can use to confidently report on your events and drive future decisions.

Scheduling & Publishing
• Master calendar with private and public calendar sites
• Upload specific schedules, such as classes and/or athletic events, to reserve space and display
• Customizable color, fonts and logos to match your branding
• Event filtering by category, location and/or keywords
• Registration and ticketing for paid or free events
• Event promotion via email or social media with built-in designs
• SEO-friendly with Google Analytics integration available
• Social referral features for many of the largest social media channels

Event Management
• Check availability based on locations or time
• Include setup and breakdown times
• Customize the workflow for internal event approval process
• Manage tasks in relation to specific events while pulling in the proper service providers
• Online payment using our preferred providers: Stripe, PayPal and more
• Pre-selected options for rooms/sites to be configured upon arrival of rented space
• Create, send and track invoices
• Establish fee packages based on organization type

Community Use
• Request portal for community requests to utilize your institution's facilities
• Ability for community to search using keywords
• Custom branding to best highlight your facilities availability for public usage

Incident
Incident is a powerful, online technology incident and help desk management tool that streamlines the entire technology workflow process, from incident request to resolution. Features include:
• Manages incidents for computers, audio visual and telecomm equipment
• Enables requesters to submit incidents and check status online
• Features enhanced routing with programmable logic for managing and automating incident approval and assignment
• Helps requesters identify problems at point of request through troubleshooting questionnaires
• Features work queues to group requests by problem type and automatically route and assigning incidents
• Enables easy import of existing inventory of IT assets
• Tracks detailed asset information including assignment, history, configuration, related incidents and default priority
• Includes online IT discussion board for peer problem solving and role-based public knowledge base for requester self-help
• Integrates with EventEssentialsPro (sold separately) to enable requesters to submit technology requests for event setup
• Integrates with MaintenanceEssentialsPro work order management system (sold separately) to provide "one stop shopping" for staff to submit either facility or IT work requests

Insight
Dude Solutions' Insight takes out the need for manual entry with agentless, automated discovery and inventory management. Our solution creates a seamless, simple way to keep track of all the assets on your
network without the added bulk of individual agents on devices.

The Insight PAD initiates two major back-end processes: Discovery and inventory.
o Discovery – The process of identifying devices on a network by detecting all of its

live IP addresses using ICMP/PING and Nmap Port Scans
o Inventory – The classification and cataloging of discovered devices and collecting details on the device itself, such as the serial number, installed software and hardware details for the asset

SmartGov
SmartGov is a browser-based software-as-a-service (SaaS) solution that securely manages and streamlines processes at every stage of engagement. With automated, mobile-enabled technology, simplify access and processes for citizens and commerce surrounding new business startups, buildings and construction, community expansion, property valuation and more.

Permitting & Planning
• Centralize permit and project data
• Monitor contractor license information
• Automate workflow and approval process
• Define an unlimited number of permit and project types
• Collaborate internally between departments or externally with clients
• Calculate fees automatically, including late NSF penalties
• Attach notes, scanned images and electronic files to a permit or project
• Manage special zoning and conditional requirements
• Assign inspections based on geographical area, violation type or inspector workload
• Integrate with existing GIS systems

Business Licensing
• Manage licensing from new applications to renewals and expirations, including timelines, fees and inspections
• Issue business licenses
• Generate notice letters for applicants
• Enable online application submittal and fee payment
• Allow for expirations or blocking of permit and inspection requests
• Enable users to view business license history

Electronic Plan Review
• Paperless processing of all plan reviews and reporting
• Enable workflows, task routing, approvals and digital plan review functionality
• Concurrent review by multiple users in real-time
• Track changes and revisions throughout the lifecycle
• Add markups, comments and time-stamps to drawings
• Attach code references to comments and generate code reference/ comment documents
• Store frequently-used comments
• Compare multiple versions of drawings with overlay and side-by-side view

Enforcement
• Automate enforcement, from complaint submittal to resolution
• Centrally track and manage unlimited case types, code violation activity and deadlines
• Assign inspections based on geographical area, violation type or inspector workload
• Track investigations, hearings and legal actions
• Automatically calculate violation fines
• Attach notes, scanned images and electronic files to a case
• View case resolution and create a permanent case history
• Integrate with existing GIS system

Inspections
• Unify automated workflows, task lists, scheduling and note-taking
• Define inspection types
• Create checklists of actions for each inspection type
• Assign inspection types and checklists to every project, permit, case or license
• Schedule inspections based on geography, type or inspector
• Track every inspection as part of a permanent digital record
• Sort, query and access records easily, from anywhere at any time

Mobile
• Full suite of permitting tools in the field via any laptop, tablet or smartphone
• Document updates or code issues and communicate them with co-workers and clients in real time

Map Integration
• Enable visualization of any number of GIS layers alongside permits, projects, inspections and code enforcement cases with an ArcGIS integration
• Five Esri GIS layers included: parcel boundaries, sewer or water lines, school districts, floodplain boundaries and zoning districts. Additional GIS layers are optional.
• GIS layers can be displayed in conjunction with the standard base maps included as part of the core feature set

		• Display inspection search results and enforcement actions as a point on a map • Navigate existing cases and initiate new cases starting from a map Public Portal • Submit permit applications, including digital documents, digital plans, fee payments and inspection requests View the status of permits, inspections and violations • Print reports and required forms • Access fee information • View daily and pending inspection schedules, as well as year-to-date metrics • View and respond to digital plan markup and comments o Review real-time plan check comments and inspection result Online Payments • Define fee types and rates Assess fees and invoice for payment • Receive partial or full payments and issue partial or full refunds • View transaction history • Integrate with payment processors and Financial Management Systems • Manage security and uptime to allow for payments 24/7	
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Education Work and Asset Energy Events Technology Capital Forecasting Government Work and Asset Energy Technology Capital Forecasting Community Development Events	*

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
66	Enterprise resource planning (ERP) solutions	○ Yes ◉ No	Not offered	*
67	Human resource information systems (HRIS)	○ Yes ◉ No	Not offered	*
68	Financial management systems	○ Yes ◉ No	Not offered	*
69	Enterprise content management (ECM) solutions	○ Yes ◉ No	Not offered	*
70	Student information systems (SIS)	○ Yes ◉ No	Not offered	*
71	Facility management software (FMS)	◉ Yes ○ No	CMMS systems, event management, energy management, capital planning	*
72	Court, corrections, law enforcement, or justice system software solutions	○ Yes ◉ No	Not offered	*
73	Municipal services, inspections, and permitting management solutions	◉ Yes ○ No	SmartGov community development software	*
74	Equipment and accessories related to the offering of systems or solutions described above.	○ Yes ◉ No	Not offered	*
75	Services related to the offering of systems or solutions described above.	◉ Yes ○ No	Implementation, facility condition assessments, additional training	*

Table 15: Industry Specific Questions

Line Item	Question	Response *	
76	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Technical success with the contract will be measured in the following domains: Information security and uptime Support responsiveness Implementation speed and quality Information security and uptime Dude Solutions provides 99.9% system availability which is calculated monthly and determined on a 24-hours-a-day, seven-days-a-week basis. The current status and incident history for our services is publicly posted at Dude Solutions status page - http://status.dudesolutions.com/. We consider the contract a success if we are meeting our system availability service level agreement. Support responsiveness Our internal support teams track time-to-respond metrics for all clients throughout the organization to ensure timely account management and responsiveness. Our internal team is committed to answering email questions within one hour and answering all phone calls within three rings. Dude Solutions also tracks customer satisfaction through the Net Promoter Score to identify opportunities for improvement throughout the organization. We characterize a successful contract as a response of a 9 or 10 on the NPS index. Implementation speed and quality Our team will track key milestones throughout the implementation process, allowing us to determine whether the client's contract is being successfully executed. We do this through the use of Basecamp, a project collaboration tool and task list that supports the management and oversight of key project deliverables. Dude Solutions will work with the client's Project Team to determine the best methods for tracking and acceptance for each implementation project.	*
77	Describe connectivity and integration capabilities between your offered solution(s) and other software systems.	We have a long history of working with organizations to integrate successfully with their products and various third-party systems. Our cloud-based SaaS solutions provide multiple out-of-the-box options to integrate with third-party systems. Our programs have the ability to store custom data for referential purposes sent from third-party systems. The data interchange/integration tools include: Flat file data exchange via the Connector Tool (AddOn) – The flat file interchange via the Connect Tool contain referential IDs so that they can refer back to the relationship with data elements likes WOs to Assets, WOs to transactions, Assets to WOs, and more which can be leveraged to maintain data integrity and relationships. Real-time data interchange via AE Rest APIs (AddOn) – The REST APIs allow the client full access to transactional and reference data captured in the system. These APIs allows for data import and export, as well as means for transactional data transfer. This is more of an advanced option, and requires technical resources on the client side. Flat file downloads via the web application Dude Solutions would work with the client to enable the following integrations with existing software systems, such as: Purchasing Finance Accounts Payable Time Management Human Resources	*
78	Describe your migration, customization, and upgrade processes.	Data Migration Data Migration can be a complex process and demands that solid requirements are well defined in order to prepare for the data migration process.Dude Solutions will help the client determine the needs for data to be migrated from any legacy system into our products. Decisions will be made jointly via a thorough analysis of the legacy system data and how or if the legacy data should be targeted to be migrated to SmartGov. The consulting team will ask a series of questions, such as: What is the reason you want to migrate your data? What are your public data request requirements? What is the required retention period? What elements are required to meet the need? Once determined, this can expand or lessen the scope to include or eliminate other data points that need to be tracked moving forward	

Are legacy systems still available to extract data from?
Do you need to report on this data?
Do you need to be able to search for this data? What is the Search criteria? These questions will help us determine where to store data within SmartGov
The data migration process will include the following steps:

Define requirements
Map data elements
Extract data
Transform data
Load data
Perform data validation with the client
Resolve data issues
Validate resolution
Obtain fresh copy of data
Add migrated data to configuration
Validate data and system configuration
Perform end to end testing
Perform final data migration
Move to Production/Training environments
Migration sign-off
Deliverables

Dataset assessment and set priorities with the client
Evaluate data quality
Work with the client to cleanse data prior to extract
Map data elements
Determine migration pre-requisites and sequencing
Define migration approach based on requirements definition
Create and execute validation checklists
Assumptions and Constraints

The client will provide information related to:

Data Source
Database/Source Type (SQL Server, Access, Oracle, etc...)
Type of Data (tabular, documents, permits, financial, etc...)
Active data usage
Point of Contact who know the data structure and content usage
Provide data validation and testing resources

Customization
Dude Solutions delivers each of its products as a Commercial Off-The-Shelf (COTS), multi-tenant cloud-hosted applications that we configure to meet our clients' needs. Due to robust configuration capability and an intuitive UI, our products typically meet our client use cases out of the box. In rare cases where this isn't true, unique customization requests can be handled on a case-by-case basis.

Upgrade Processes
Dude Solutions runs a standing maintenance window each Wednesday night at midnight through which release notes are posted inside the app the day before being distributed. For any material workflow change where user action is required or a key work flow changes, users get seven days advance notice via in app notifications and emails.

Regular system maintenance is performed weekly during non-business hours (10:00 PM ET to 6:00 AM ET; Monday through Friday). Regular system maintenance can result in brief interruptions to system availability (but still maintaining the overall 99.5% 24x7 availability target).

79	Describe your data integrity and protection standards, data backup, recovery and secure storage solutions.	Dude Solutions has a documented information classification policy for protecting information that is critical to the organization and its Customers. Information must be classified according to the risks associated with its storage, processing, and transmission. Consistent use of the information classification policy facilitates efficient business activities and insures all information is appropriately safeguarded. All Customer data is classified at the CONFIDENTIAL level as a minimum. Data Storage Dude Solutions stores Customer data in commercial state-of-the-art secure data centers. These data centers undergo annual SSAE-18 type II audits and certification. Currently, the data centers are located in North Carolina (primary) and Pennsylvania (disaster recovery). Dude Solutions also uses Amazon S3 and Glacier (Eastern US) for long term archiving of data. Dude Solutions does not store Customer data outside of the United States. Data Encryption at Rest Sensitive credentialing data, such as passwords, are salted/hashed using Password Based Key Derivative Function, also known as PBKDF2. In addition to the hashing of credentialing data, all other databases are encrypted at rest in data center hardware using AES-256 encryption. Data Encryption in Transit All user communication with Dude Solutions applications is via securely encrypted TLS/SSL (TLS v1.1 minimum) communication channels (https). Dude Solutions uses the most current technology for our SSL certificates: 2048 bit key, SHA-2 signature algorithm, and industry standard CA providers. Insecure cipher keys are not used. Customer uploads of data -- if required -- are performed using secure FTP (SFTP) connections. IPSec VPN tunnels and TLS\SSL are used to transfer data between locations for disaster recovery and offsite backup. Data Segmentation Dude Solutions provides multi-tenant Software as a Service (SaaS) solutions. Customer data is logically segmentation based on unique Customer ID numbers. Data segmentation is enforced by constraints at both the application and the database management system level. Files attached to records in the applications are stored in separate folders on a file system. Data Leak Prevention Dude Solutions uses a third party managed security service (MSS) which provides firewall management, IDS and IPS. Dude Solutions' MSS actively monitors network traffic and takes appropriate/specified action when security events occur. For more information Please refer to the attached business continuity overview for more information about our data integrity and protection standards.	*

80	Describe your strategy related to implementation, integration and use of installation partners.	Implementation Strategy Dude Solutions' implementation combines both offsite (virtual) and onsite implementation. The Implementation Process for Asset Essentials is composed of the following stages: Planning & Requirements Account Configuration User Training and Acceptance Launch The Planning and Requirements phase begins with an Orientation Call. The purpose of this call is to acquaint one another with key stakeholders, identify contact information, discuss objectives and milestones, and officially kick-off implementation. During this call, the Project Coordinator aligns your business objectives with an implementation plan and resources tailored to the features and functionality of the application you plan to utilize. Both Parties shall mutually agree on the appropriate milestones to be set forth in the implementation plan prior to initiating the regularly scheduled requirements meetings. During the ongoing meeting, Dude Solutions shall be responsible for guiding and consulting with the Client's Project Team to discuss, gather and document the business requirements in our Production Requirements Document (PRD). Dude Solutions shall complete and submit this to the Client for its review and approval. The Account Configuration phase shall commence upon receipt from Client of final written approval of the PRD, all required deliverables and templates necessary for Dude Solutions to complete the configuration and customization of the Dude Solutions application. During the Account Configuration Phase, Dude Solutions may require Client to review and approve specific, smaller components of the overall implementation in order to configure and customize a subsequent component. During the User Training and Acceptance phase Client will have the ability to conduct test cases as determined by Client in consultation with Dude Solutions to determine whether the product performs in accordance with the application's documentation, the Agreement, and the specifications for Client's documented business requirements. During the Acceptance Period, Client will conduct Acceptance tests in accordance with the Test Cases, and will report any defects discovered in Client's testing, in accordance with the process for reporting that shall be agreed upon by the Parties during the Requirements Phase. The Launch phase shall commence upon written Acceptance of the implementation provided by Client to Dude Solutions. A multi-phased implementation would require an interative approach for multiple user groups across project sites. These phases would be repeated, as needed, based on the client's requirements. Integration Dude Solutions manages some direct connections through our Connector tool, which will be scoped during the proposal phase for each client. With regards to other API integrations that fall outside of this traditional scope: Client will be responsible for all data integration points. Dude Solutions Inc.'s will provide API documentation. However, resources to manage integrations with third party software will the be responsibility of the client. Dude Solutions Inc. has decided not to have specific integrations with other solutions in order provide our clients the freedom to leverage our data in any system, provided there is capability, instead of a select few. Installation Partners Dude Solutions does not use installation partners.	*
81	Identify any mobile applications available for your offered solutions, if applicable.	Dude Solutions offers dedicated mobile applications for two of our systems: SmartGov and Asset Essentials. All other products are accessible through web browsers on any internet-ready device.	*

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 82. NOTICE: To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.

2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.

3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.

4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as “Marketing Plan.”

- Financial Strength and Stability - Dude Solutions Financial Disclosure Form - 7.8.20.pdf - Wednesday September 02, 2020 09:36:40
- Marketing Plan/Samples (optional)
- WMBE/MBE/SBE or Related Certificates - Clearlake Capital Group - Minority Ownership Certificate (12.1.2019).pdf - Tuesday September 01, 2020 12:14:33
- Warranty Information (optional)
- Pricing - Sourcewell Price Book.pdf - Tuesday September 01, 2020 11:27:40
- Additional Document - Sourcewell data sheets.pdf - Wednesday September 02, 2020 08:58:08

Proposer's Affidavit

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.

3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor’s objectivity in performing the contract is, or might be, impaired.

5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.

6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.

7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.

8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

11. Proposer its employees, agents, and subcontractors are not:

    a. Included on the “Specially Designated Nationals and Blocked Persons” list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: https://www.treasury.gov/ofac/downloads/sdnlist.pdf;

    b. Included on the government-wide exclusions lists in the United States System for Award Management found at: https://www.sam.gov/portal/3; or

    c. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☑ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Kathryn Bennett, Proposal Manager, Dude Solutions, INc.

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

○ **Yes** ◉ **No**

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum"** below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_7_Public_Sector_Admin_Software_RFP_090320 Thu August 20 2020 03:52 PM	☑	4
Addendum_6_Public_Sector_Admin_Software_RFP_090320 Mon August 17 2020 07:56 AM	☑	2
Addendum_5_Public_Sector_Admin_Software_RFP_090320 Mon August 10 2020 02:35 PM	☑	1
Addendum_4_Public_Sector_Admin_Software_RFP_090320 Thu August 6 2020 10:34 AM	☑	2
Addendum_3_Public_Sector_Admin_Software_RFP_090320 Thu July 30 2020 03:38 PM	☑	3
Addendum_2_Public_Sector_Admin_Software_RFP_090320 Thu July 23 2020 12:34 PM	☑	1
Addendum_1_Public_Sector_Admin_Software_RFP_090320 Fri July 17 2020 09:18 AM	☑	1

DocuSign Envelope ID: DE2A0EAA-BDED-4E9D-BD52-1F42C41FFE27

AMENDMENT #1
TO
CONTRACT # 090320-SDI

THIS AMENDMENT, effective upon the date of the last signature below, is by and between **Sourcewell** and **Brightly Software, Inc.** (Supplier).

Sourcewell awarded a contract to Dude Solutions, Inc. to provide Public Sector and Education Administration Software Solutions with Related Services, to Sourcewell and its Participating Entities, effective November 6, 2020, through November 2, 2024 (Contract).

Supplier notified Sourcewell that it changed its name to Brightly Software, Inc. Supplier has requested modification to the Sourcewell Contract to reflect the name change.

The parties wish to amend the Contract as follows:

Throughout the Contract, the name "Dude Solutions, Inc.," will be replaced with "Brightly Software, Inc."

Except as amended by this Amendment, the Contract remains in full force and effect.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz, Chief Procurement Officer

Date: 3/10/2022 | 8:33 AM CST

Brightly Software, Inc.

DocuSigned by:
By:
02DF19D1127B429...
Dan Graham, [illegible]

Date: 3/9/2022 | 7:00 PM EST

Approved:

DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...
Chad Coauette, Executive Director/CEO

Date: 3/10/2022 | 8:34 AM CST

Dude Solutions #090320-SDI

Pricing for contract #090320-SDI offers Sourcewell participating agencies the following discounts:

- Software: 21% discount from list price
- QuickStart: 6% discount from list price
- Vendor Services: 3% discount from list price
- DSI Services: 5% discount from list price

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Bryce Doty, Real Estate Manager
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract Amendment: Purchase Contract for property acquisition services with TB Real Property Consultants, LLC in the amount of $100,000.00 for property acquisitions necessary for the Milton Road and University Avenue Right of Way Capital Project.

STAFF RECOMMENDED ACTION:

1. Approve an amendment to the contract for property acquisition services with TB Real Property Consultants, LLC, to increase the scope of work and contract amount to an amount not to exceed $100,000.00 for property acquisitions necessary for the Milton Road and University Avenue Right of Way Capital Project; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The City entered into a contract for property acquisition services on December 15, 2022 with TB Real Property Consultants, LLC for the rights necessary for the Milton Road and University Avenue Right of Way Project. The City has used Contractor more extensively than originally anticipated and workload has increased as a result of changes in the Project design. As a result, the compensation for the contract has increased from a not-to-exceed $49,500 to a not-to-exceed $100,000. The additional services has enabled the City to deliver the property rights needed for the project within the construction timeline. Construction commenced in May 2023.

Financial Impact:

In May 2000, the Flagstaff voters approved Proposition 403 which provided funding for improvements to Traffic Flow and Safety. As part of this proposition, two of those projects apply to the Project. These two projects were the University Avenue Realignment and Beulah Boulevard Extension.

City Staff completed a preliminary realignment plan and programmed $7.4 million in the FY2015 Capital Improvement Program Summary. Now in FY2023, the authorized spending budget is $22,139,900 which was funded from the new transportation tax.

As part of the internal FY2023 budget process, the team reported in January 2022 a request for additional funds to cover the expenses reported with the guaranteed maximum price (GMP) of $17.3M by EMC. The discussion with Finance continued in April when Finance Staff was able to identify an approximate $800K coming from the balance of the Fourth Street Reconstruction Project as well as an approximate $3.6M from potential carry forwards from Prop. 419 projects in FY2023. This was based on the estimated budget expenditures for projects identified that may not be completed or are anticipated to be pushed to FY2024. The total proposed budget for FY 2023 would be $22.1M with a contribution of

$1.65M from Vintage Partners (VP). It should be noted that VP is responsible for all costs associated with the pedestrian underpass and per Amendment One to the Development Agreement (DA), those costs must be repaid to the City within five (5) years. This payment has been referred to at the true-up payment.

As the Project has undergone design, the estimate of construction has increased. When Eagle Mountain Construction (EMC) joined the team last fall, the project estimating transferred from SWI to EMC, or from designer to contractor. As mentioned earlier, this allows for a more inclusive estimate by those who will be constructing the Project and are familiar with current costs and availability. When EMC provided the team an estimate in mid-January 2022 the construction cost estimate was $17.3M. Upon greater refinement of the design, that figure grew to $18.5M in the beginning of March 2022 and when the 90-percent plans were completed in the end of April 2022, the construction costs were up to $19.1M. At that time in April, the estimating was put on hold until the design plans were finalized, and a value engineering effort could be completed. In the late October/early November timeframe, the value engineering was ended and resulted in a project savings of $668,790, without reducing the project scope. While facing inflations and the rising costs of materials, supplies, and operations, the team was able to finalize the GMP at $19,309,333.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe and Healthy Community -

- Foster a safe, secure, and healthy community.
- Ensure the built environment is safe through the use of consistent standards, rules and regulations, and land use practices.

Inclusive and Engaged Community -

- Advance social equity and social justice in Flagstaff.

Sustainable, Innovative Infrastructure -

- Deliver outstanding services to residents through a healthy, well maintained infrastructure system.
- Utilize existing long-range plans that identify the community's future infrastructure needs and all associated costs.
- Identify smart traffic management, multi modal transportation, and alternative energy opportunities.

Environmental Stewardship -

- Implement sustainable building practices and alternative energy and transportation options.
- Implement, maintain and further the Climate Action and Adaptation Plan.

Regional Plan Goal T.2 -

- Improve transportation safety and efficiency for all modes**.**

Has There Been Previous Council Decision on This:

None.

Attachments: Contract
Amendment
Amendment Exhibit 1

CONTRACT FOR SERVICES
Contract No. 2023-73

This Contract is entered into this 15th day of December, 2022 by and between the City of Flagstaff, a political subdivision of the State or Arizona ("Owner"), TB Real Property Consultants, LLC, an Arizona limited liability company ("Contractor").

WHEREAS, the City desires to receive and Contractor is able to provide real estate support and acquisition services;

NOW, THEREFORE, in consideration for the mutual promises contained herein the City and the Contractor ("the Parties") agree as follows:

SERVICES

1. Scope of Work: The Contractor shall provide professional planning services generally described as:

Beulah/University Realignment Project – Property Acquisition Services

as more specifically described in the Scope of Work attached hereto as *Exhibit A.*

2. Standard Terms and Conditions: The City's Standard Terms and Conditions for Services attached hereto as *Exhibit B* apply to the performance of this Contract.

3. Key Personnel/Subcontractors: Contractor was selected for its special knowledge, skills and expertise and shall not subcontract work in whole or in part without the City's advance written consent. The contact information for Contractor's Key Personnel and subcontractors (if any) shall be provided to the City. Key Personnel are those who have significant responsibilities for completion of the services. The City Representative has the right to approve any proposed substitution of Key Personnel or Subcontractors.

Subcontractor approved to work on the Project with Contractor is Chris Childers.

CITY RESPONSIBILITIES

4. City Representative: The City Representative Bryce Doty, Real Estate Manager, or designee. All communications with the City shall be through the City Representative. The City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the Procurement Specialist.

5. City Cooperation: The City will cooperate with the Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for the Contractor's performance of this Contract.

CONTRACT TERM

6. Contract Term: The Contract term shall commence on November 1, 2022 and continue for a period of two (2) years.

7. Renewal: This Contract may be renewed or extended for up to one additional one-year term by mutual written consent of the parties. The City Manager may designate this authority to the

Purchasing Director.

8. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions attached as *Exhibit B.*

9. Availability of Funds: The City may terminate all or a portion of the Contract immediately, without prior notice and/or penalty, if there is no funding for the services due to budget constraints and non-appropriation of funds for the following fiscal year.

PAYMENT

10. Compensation: In consideration for the Contractor's satisfactory performance, the City shall pay the Contractor an amount not to exceed forty-nine thousand five-hundred dollars ($49,500.00). Any price adjustment must be approved in writing and approved by both the parties. The City Manager or his designee (the Purchasing Director) may approve an adjustment if the Contract price is less than $50,000; otherwise the approval of City Council is required.

INSURANCE

11. Insurance: Throughout the term of this Contract, the Contractor shall comply with the City's standard insurance requirements set forth in Exhibit C.

NOTICE

12. Notice: Any notice concerning this Contract shall be sent by certified mail or email as follows:

CITY:
Patrick Brown
Procurement Director
City of Flagstaff
211 West Aspen Avenue
Flagstaff, AZ 86001
PBrown@flagstaffaz.gov

WITH A COPY TO:
Bryce Doty
Real Estate Manager
211 West Aspen Avenue
Flagstaff, AZ 86001
BDoty@flagsaffaz.gov

CONTRACTOR:
Todd M. Belzner, President/Owner
TB Real Property Consultants, LLC
27626 N. 46th Street
Cave Creek, AZ 85331
(480) 415-4819
Tbelzner1@gmail.com

MISCELLANEOUS

13. Successors and Assigns: Contractor was selected for its special knowledge, skills and expertise, and shall not assign this Contract, in whole or in part, without the City's prior written approval. Likewise, Contractor shall not delegate any duty required by the Contract without prior written approval of the City.

14. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

15. Execution: This Contract is effective the date upon final signature of both parties.

CONTRACTOR

12/5/22

Todd Belzner, President/Owner

CITY OF FLAGSTAFF

Dan Folke, Community Development Director

Attest:

City Clerk

Approved as to form:

City Attorney

EXHIBIT A
SCOPE OF WORK AND PRICING

Real Estate Acquisition Services

Contractor shall assist in acquiring real property interests for the Beulah/University Realignment Project ("the Project"). The project involves over 30 Coconino County Assessor parcels. A chart listing the property interests to be acquired for the Project is attached as Exhibit A-1.

City will assign all or some of these property interests to Contractor for acquisition by issuance of a Notice to Proceed.

Schedule

The City anticipates it will be receiving appraisals November 2022 – January 2023. Time is of the essence for completion of acquisitions. City will make offers with 30 days for negotiation of a purchase agreement, and then may elect to proceed with condemnation to acquire immediate possession. The schedule calls for construction to begin in Spring 2023. This project does not require federal relocation assistance to property owners.

City tasks

City will perform following tasks:

- Obtain appraisals
- Prepare and send offer letters, with forms of purchase contracts, deeds and easements
- Order title reports and any updates
- Order litigation guarantee reports
- Order environmental assessments
- File condemnation actions if necessary to obtain immediate possession
- Provide Contractor with a list of the property interests to be acquired

Contractor tasks

Contractor will perform the following tasks for the property interests assigned by City to be acquired:

- If requested by City, review draft offer letters, with forms of purchase contracts, deed and easements
- Negotiate with property owners, in person if necessary, for purchase of the property interests
- Track and record all contacts with property owners and outcome
- Maintain owner contact logs for each parcel
- Maintain a separate file for each parcel (to include all property interests being acquired)
- If required by City, conduct review appraisals (project is not federally funded, no review appraisals anticipated)
- Assist City in preparing market analysis valuations for low value acquisitions (in lieu of appraisals) which includes, but is not limited to properties listed below
- Review appraisals Title Reports supplied by City (cursory review, as needed to respond to property owner comments)
- Review materials supplied by City
- Review any data or appraisals supplied a property owner
- Review construction plans with the Project Manager as needed to answer property owner questions

- Work with Pioneer Title to complete acquisitions
- Notify City of any property owner requests for additional compensation or other measures not included in the initial offer (City reserves right to approve or disapprove)
- Obtain approval from City Attorney's Office for any modifications to the forms of purchase contracts, deeds and easements
- Participate in Executive Session for purposes of property negotiation if requested by the City Attorney's Office
- Provide information to City's outside legal counsel for condemnation if requested by the City Attorney's Office
- Present fully negotiated purchase contracts to City Real Estate Manager for execution
- Provide weekly status reports of acquisition efforts to Real Estate Manager via email in the form of an Excel spreadsheet provided by the Real Estate Manager
- Preserve all materials related to performance of this contract for five (5) years
- Maintain confidentiality of any attorney-client privileged information
- Maintain confidentiality of any materials City advises should remain confidential

The City's Representative for this contract is Bryce Doty, Real Estate Manager, (928)-213-2072, bryce.doty@flagstaffaz.gov . All communications should be routed through the City Representative.

Pricing

Todd Belzner $135.00 per hour

As part of any City approval of a subcontractor, City will approve his or her hourly rate based on experience and difficulty of work.

Low value acquisitions (temporary construction easements on Yale Street):

103-20-005	Elden Properties, LLC
103-20-006	Elden Properties, LLC
103-20-007	Elden Properties, LLC
103-20-008	Bleekers Investments, LLC
103-20-009	Adrian and Laura Parra-Atayde
103-20-010	Jamb Properties of Northern Arizona
103-20-011	Adrian and Laura Parra-Atayde
103-20-012	Ronald and Christal Stump

Beulah/University Drive Roadway Project - Chart(attached as Exhibit A-1)

Exhibit 1
Chart

Project #	APN	Legal Description	Owner Parcel Address/Owner Address Mailing Address	Property Interest to be Acquired	Square Footage of Property Interest to be Acquired
BU-01	103-32-008A	See attached legal description	Cavalier Arizona LP 2015 S. Beulah Blvd. Flagstaff, AZ 86001 545 E. John Carpenter FRWY Irving, TX 75062	Right-of-Way	2,730
BU-02	103-32-008A	See attached legal description	Cavalier Arizona LP 2015 S. Beulah Blvd. Flagstaff, AZ 86001 545 E. John Carpenter FRWY Irving, TX 75062	Slope Easement	581
BU-04	103-32-002B	See attached legal description	Hsuan Partnership 360 W. Forest Meadows St. Flagstaff, AZ 86001	Sidewalk Easement	240
BU-06	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Right-of-Way	1,930
BU-07	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Temporary Construction Easement	844

Exhibit 1
Chart

BU-08	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Public Utility Easement	148
BU-09	112-24-016	See attached legal description	Woodland Village Apartments 813 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Drainage Easement	558
BU-10	112-24-016	See attached legal description	Woodland Village Apartments 813 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Right-of-Way	11,1178
BU-11	112-24-019	See attached legal description	Haven Flagstaff Real Estate LLC 800 W. University Ave. Flagstaff, AZ 86001 1 Whitecliff Laguna Niguel, CA 92677	Temporary Construction Easement	362

Exhibit 1
Chart

BU-12	103-21-026	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Slope Easement	7,902
BU-13	103-21-026 NORTH	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Slope Easement	456
BU-14	103-21-026	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Drainage Easement	492
BU-15	103-21-026	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	4,236

Exhibit 1
Chart

BU-18	103-21-024	See attached legal description	VP CINEMA LLC 1801 S. Milton Rd. Flagstaff, AZ 86001 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	44,335
BU-19	103-21-024	See attached legal description	VP CINEMA LLC 1801 S. Milton Rd. Flagstaff, AZ 86001 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Slope Easement	1,885
BU-22	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Right-of-Way	3,792
BU-23	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Temporary Construction Easement	4,604

Exhibit 1
Chart

BU-24	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Slope Easement	272
BU-25	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	2,293
BU-26	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	5,124
BU-28	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Right-of-Way	16,341

Exhibit 1
Chart

BU-29	103-21-027	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-027 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	3,914
BU-31	103-21-021C	See attached legal description	Westside Property LLC 575 W. University Ave. Flagstaff, AZ 86001 43551 Mission Blvd. No. 111 Freemont, CA 94539	Temporary Construction Easement	2,618
BU-33	103-21-003	See attached legal description	MGS University LLC 600 W. University Ave. Flagstaff, AZ 86001 7117 E. Rancho Vista Dr. No. 6003 Scottsdale, AZ 85251	Temporary Construction Easement	1,060
BU-34	103-21-004	See attached legal description	Elden Properties LLC 1618 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	236

Exhibit 1
Chart

BU-35	103-21-005	See attached legal description	Daniel & Diane Borden 1612 S. Yale St. Flagstaff, AZ 86001 8767 Sunshine Ave. Flagstaff, AZ 86004	Temporary Construction Easement	215
BU-36	103-22-004D	See attached legal description	Greentree Associates LTD 1800 S. Milton Rd. Flagstaff, AZ 86001 6266 La Salle Ave. Oakland, CA 94611	Right-of-Way	494
BU-37	103-22-004D	See attached legal description	Greentree Associates LTD 1800 S. Milton Rd. Flagstaff, AZ 86001 6266 La Salle Ave. Oakland, CA 94611	Temporary Construction Easement	72
BU-38	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Right-of-Way	11,905

Exhibit 1
Chart

BU-39	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Right-of-Way (ped underpass)	3,417
BU-40	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Public Utility Easement	6,885
BU-41	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Sidewalk Easement	696
BU-42	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Bus Stop Milton	377

Exhibit 1
Chart

BU-43	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Sidewalk Easement University	3,784
BU-44	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Temporary Construction Easement	21,203
BU-45	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 PO Box 460189 Houston, TX 77056	Sidewalk Easement	1,805
BU-46	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 PO Box 460189 Houston, TX 77056	Temporary Construction Easement	9,732

Exhibit 1
Chart

BU-47	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 PO Box 460189 Houston, TX 77056	Public Utility Easement	134
BU-48	No APN - ROW	See attached legal description	City of Flagstaff ROW from COF to ADOT Milton West 211 W. Aspen Ave. Flagstaff, AZ 86001	Right-of-Way	2,927
BU-49	103-22-003A	See attached legal description	Arizona Board of Regents for Northern Arizona University University Drive Flagstaff, AZ 86001 PO Box 4092 Flagstaff, AZ 86011	Right-of-Way	1,547
BU-50	N/A	See attached legal description	Right-of-Way from 103-22-005A Target to ADOT Milton East	Right-of-Way	431

Exhibit 1
Chart

BU-51	N/A	See attached legal description	City of Flagstaff ROW COF to 103-20-059D University Square Apt. 211 W. Aspen Ave. Flagstaff, AZ 86001	Right-of-Way	1,007
BU-52	103-22-003A	See attached legal description	Arizona Board of Regents for Northern Arizona University University Drive Flagstaff, AZ 86001 PO Box 4092 Flagstaff, AZ 86011	Drainage Easement	27,007
BU-53	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Drainage Easement	148
BU-54	103-22-002A	See attached legal description	Diocese of Phoenix Catholic Cemeteries & Mortuaries 201 W. University Dr. Flagstaff, AZ 86001 2033 N. 48th St. Phoenix, AZ 85008	Drainage Easement	138

Exhibit 1
Chart

BU-55	112-24-019	See attached legal description	Haven Flagstaff Real Estate LLC 800 W. University Ave. Flagstaff, AZ 86001 1 Whitecliff Laguna Niguel, CA 92677	Sidewalk Easement	138
BU-56	103-22-004D	See attached legal description	Greentree Associates LTD 1800 S. Milton Rd. Flagstaff, AZ 86001 6266 La Salle Ave. Oakland, CA 94611	Public Utility Easement (Light Poles)	382
BU-57	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Drainage Easement	541
BU-59	103-19-001B	See attached legal description	Arizona Board of Regents for Northern Arizona University 1115 Knoles Dr. Flagstaff, AZ 86001 PO Box 4092 Flagstaff, AZ 86011	Drainage Easement	881

Exhibit 1
Chart

BU-60	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Public Utility Easement	217
BU-61	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	357
BU-62	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	30
BU-63	103-21-024	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	18

Exhibit 1
Chart

BU-64	103-32-008A	See attached legal description	Cavalier Arizona LP 2015 S. Beulah Blvd. Flagstaff, AZ 86001 545 E. John Carpenter FRWY Irving, TX 75062	Public Utility Easement	144
BU-65	103-32-008A	See attached legal description	Cavalier Arizona LP 2015 S. Beulah Blvd. Flagstaff, AZ 86001 545 E. John Carpenter FRWY Irving, TX 75062	Public Utility Easement	142
BU-66	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 PO Box 460189 Houston, TX 77056	Public Utility Easement	60
BU-67	103-21-006	See attached legal description	Elden Properties LLC 1606 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	50

Exhibit 1
Chart

BU-68	103-20-005	See attached legal description	Elden Properties LLC 1600 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	78
BU-69	103-20-006	See attached legal description	Elden Properties LLC 1530 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	144
BU-70	103-20-007	See attached legal description	Elden Properties LLC 1524 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	156
BU-71	103-20-008	See attached legal description	Bleeker Investments LLC 1518 S. Yale St. Flagstaff, AZ 86001 5400 E. Empire Ave. Flagstaff, AZ 86004	Temporary Construction Easement	184

Exhibit 1
Chart

BU-72	103-20-009	See attached legal description	Adrian & Laura Parra-Atayde 1512 S. Yale St. Flagstaff, AZ 86001 1845 W. Shellie Dr. Flagstaff, AZ 86001	Temporary Construction Easement	180
BU-73	103-20-010	See attached legal description	JAMB Properties of Northern Arizona LLC 1506 S. Yale St. Flagstaff, AZ 86001 3191 E. Cold Springs Trail Flagstaff, AZ 86004	Temporary Construction Easement	227
BU-74	103-20-011	See attached legal description	Adrian & Laura Parra-Atayde 1500 S. Yale St. Flagstaff, AZ 86001 1845 W. Shellie Dr. Flagstaff, AZ 86001	Temporary Construction Easement	32
BU-75	103-20-012	See attached legal description	Ronald & Christal A Stump 1426 S. Yale St. Flagstaff, AZ 86001 7609 Whitewood Way Flagstaff, AZ 86001	Temporary Construction Easement	16

EXHIBIT B
STANDARD TERMS AND CONDITIONS
(Last Updated March 23, 2022)

*The term "Contractor" may substitute for the term "vendors," "Contractors," or "firms," depending on the purpose of the underlying Contract.

IN GENERAL

1. **PARTIES:** The City of Flagstaff ("City") and the contractor identified in the Contract ("Contractor") may be referred to individually as "Party" or collectively as "Parties".

2. **NOTICE TO PROCEED:** Contractor shall not commence performance until after the City has issued a Notice to Proceed.

3. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract and provide copies to City upon request.

4. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of the Contract.

5. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, the Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

6. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

7. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

8. **QUALITY:** Contractor warrants that all materials supplied under the Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials and will be safe and appropriate for use as normally used. The City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

9. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

10. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to the City upon the City's acceptance of the materials.

11. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall

be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

12. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

13. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

14. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor may not substitute nonconforming materials and/or services. Delivery of nonconforming materials and/or services, or a default of any nature, shall constitute a breach of the Contract as a whole.

15. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

16. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens, other than the security interest held by Contractor, until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

17. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

18. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number and dates when goods had been shipped or work performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

19. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, the City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

20. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of the Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line-item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

21. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

22. **FUEL CHARGES:** Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by the City.

23. **DISCOUNTS:** If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by the City.

24. **AMOUNTS DUE TO THE CITY:** Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to the City or fees and charges owed to the City under the Contract.

25. **OFAC:** No payments may be made to any person in violation of Office of Foreign Assets Control regulations. 31 C.F.R. Part 501.

SERVICES

26. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

27. **CONTROL:** Contractor shall be responsible for the control of the work.

28. **WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

29. **SAFEGUARDING PROPERTY:** Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.

30. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.

31. **ACCEPTANCE:** If the City rejects Contractor's work due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

32. **WARRANTY:** Contractor warrants all work for a period of one year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one year warranty is in addition to and

does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

33. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five years after completion of the Contract.

34. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.

35. **PUBLIC RECORDS:** The Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law. A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

36. **CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City's contract administration process. Contractor will be closely monitored for Contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION

37. **GENERAL INDEMNIFICATION:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense, arising out of the acts, errors, or omissions of Contractor, its officers, agents, employees, and subcontractors, in performing or failing to perform the responsibilities identified in the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects, and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

38. **INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of the alleged infringement of any patent, trademark or copyright or other proprietary rights of any third-parties arising out of Contract performance or use by the City of materials furnished or work performed under the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

39. **NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from an against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs

of defense arising out of all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

40. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.

41. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the Parties.

42. **AMENDMENTS:** The Contract may be amended by written agreement of the Parties.

43. **SEVERABILITY:** If any term or provision of the Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted and the remainder of the Contract shall remain in full force and effect.

44. **NO WAIVER:** Both Parties have the right insist upon strict performance of the Contract, and the prior failure of a Party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

45. **ASSIGNMENT:** Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. Any assignment without such consent shall be null and void. No assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to the City. The Purchasing Director shall have authority to consent to an assignment on behalf of the City.

46. **BINDING EFFECT:** The Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

47. **SUBCONTRACTING:** Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. The City reserves the right to withhold consent if the subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the

underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

48. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor whose business is located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02, *Civil Rights*, which also prohibits discrimination based on sexual orientation, or gender identity or expression.

49. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.

50. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and federal immigration laws and regulations shall constitute a material breach of the Contract and shall subject Contractor to penalties up to and including termination of the Contract. The City may, at its sole discretion, conduct random verification of the employment records of the employees of the Contractor and any subcontractors to ensure compliance with all state and federal immigration laws and regulations. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contract if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

51. **TERMINATION FOR DEFAULT:** Prior to terminating the Contract for a material breach, the non-defaulting Party shall give the defaulting Party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting Party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting Party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the Parties may execute all remedies available at law in addition to the Contract remedies provided for herein.

52. **CITY REMEDIES:** In the event of Contractor's default, the City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. The City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

53. **CONTRACTOR REMEDIES:** In the event of the City's default, Contractor may pursue all remedies available at law, except as provided for herein.

54. **TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. **TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, the Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If the Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by the City before the effective date of termination.

56. **TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate the Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. **PAYMENT UPON TERMINATION:** Upon termination of the Contract, the City will pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. **CANCELLATION FOR GRATUITIES:** The City may cancel the Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with award or performance of the Contract.

59. **CANCELLATION FOR CONFLICT OF INTEREST:** Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. **COOPERATIVE PURCHASE CONTRACTS:** Presuming that Contractor agreed to such during the procurement process, Contractor will enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell materials and services to any member of a cooperative group under the same pricing, terms and conditions of the contract awarded to the Contractor by the public procurement unit, following a competitive procurement process.

61. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with the City without the prior written consent of the City.

62. **NOTICES:** All notices given pursuant to the Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other Party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four days after being sent; or (c) sent by overnight courier, with receipt deemed effective two days after being sent. Notice may be sent by email as a secondary form of notice.

63. **THIRD PARTY BENEFICIARIES:** The Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.

64. **GOVERNING LAW:** The Contract shall be construed in accordance with the laws of Arizona.

65. **FORUM:** In the event of litigation relating to the Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

66. **ATTORNEYS' FEES:** If any action at law or in equity is necessary to enforce the terms of the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

67. **FORCE MAJUERE:**

a. There may be events that occur during the term of the Contract that are beyond the control of both the City and Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God ("Events"). These Events may result in a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables that are the subject of the Contract.

b. There shall be no claims arising from a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables caused by the Events and the City shall not pay additional costs incurred by Contractor as a result of such Events.

c. The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and that the extension will be in an amount of time equal to any temporary delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

68. **NO BOYCOTT OF ISRAEL:** Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents ($100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

69. **CHANGES TO CONTRACT:** The Contract shall not be modified within the first year after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other proposers/bidders; or (b) requests for changes may delay commencement of performance.

EXHIBIT C
STANDARD INSURANCE REQUIREMENTS
(Last Updated March 23, 2022)

*The term "Contractor" may substitute for the term "vendors," "Contractors," or "firms," depending on the purpose of the underlying Contract.

1. **IN GENERAL:** Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with the Contract by Contractor, its agents, representatives, employees, and/or subcontractors.

2. **REQUIREMENT TO PROCURE AND MAINTAIN:** Each insurance policy required by the Contract shall be in effect at, or before, commencement of work under the Contract and shall remain in effect until all of Contractor's obligations under the Contract have been met, including any warranty periods. Contractor's failure to maintain the insurance policies as required by the

Contract, or to provide timely evidence of renewal, will be considered a material breach of the Contract.

3. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Where applicable, as related to the Scope of Work, Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	$2,000,000
Products/Completed Operations	$1,000,000
Each Occurrence	$1,000,000

b. Umbrella Coverage $2,000,000

c. Automobile Liability

~~Any Automobile or Owned, Hired, and Non-owned Vehicles Combined Single Limit Per Accident for Bodily Injury & Property Damage~~ ~~$1,000,000~~

Contractor will use personally owned vehicle with business use coverage. Statutory limits required.

d. Workers' Compensation and Employer's Liability Contractor has no employees.

Workers' Compensation	Statutory
Employer's Liability: Each Accident	~~$1,000,000~~
Disease - Each Employee	~~$1,000,000~~
Disease - Policy Limit	~~$1,000,000~~

e. Professional Liability ~~$2,000,000~~

$1,000,000

f. Network Security and Privacy Liability

Per claim	$2,000,000
Annual Aggregate	$2,000,000

4. **NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall maintain the requisite insurance requirements covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law,

computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. The insurance policy shall include coverage for third-party claims. The insurance policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.

5. **SELF-INSURED RETENTION:** Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that Contractor reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and/or subcontractors. Contractor shall be solely responsible for any self-insured retention amounts. The City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

6. **OTHER INSURANCE REQUIREMENTS:** The insurance policies shall contain, or be endorsed to contain, the following provisions:

   a. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.

   b. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.

   c. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.

   d. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

   e. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.

   f. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

7. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of the Contract shall provide the required coverage and shall not be suspended, voided, cancelled, and/or reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Procurement Agent and shall reference the Contract Number.

8. **ACCEPTABILITY OF INSURERS:** Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

9. **CERTIFICATES OF INSURANCE:** Contractor shall furnish the City with certificates of insurance (ACORD form) as required by the Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City Contract number shall be noted on the certificates of insurance. If requested by the City, all certificates of insurance and endorsements must be received and approved by the City before the Contractor commences work.

10. **POLICIES:** The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by the Contract. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under the Contract.

11. **MODIFICATIONS:** Any modification or variation from the insurance requirements in the Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

SOLICITATION NAME: Beulah/University Realignment Project- Property Acquisition Services
AMENDMENT: April 18, 2023
CONTRACT NUMBER: 2022-98
PROCUREMENT METHOD: Sole Source

This Amendment to the Contract for Services dated December 15, 2022 by and between the City of Flagstaff, a political subdivision of the state of Arizona and TB Real Property Consultants, LLC an Arizona limited liability company for real estate acquisition and valuation services ("the Contract") is made and entered into effective this 18th day of April 2023.

WHEREAS, the City has used Contractor's more extensively than originally anticipated and workload has increased as a result of changes in the Project design;

Now, therefore, the parties agree as follows:

1. The list of properties to be acquired (attached to the Contract as part of Exhibit A Scope of Work and Pricing), is hereby replaced with the new list attached hereto as Exhibit 1.

2. Paragraph 10 (Compensation) of the Contract is amended. In consideration for additional services, the compensation to be paid to Contractor for satisfactory performance of the work is increased from $49,500.00 to $100,000.00.

3. All other provisions, terms and conditions of the Agreement shall remain unchanged and in full effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, effective as of the date first written above.

OWNER
City of Flagstaff

By Its Authorized Representative:

_____
Mayor Becky Daggett

_____
Date

CONTRACTOR
TB Real Property Consultants, LLC

By Its Authorized Representative:

_____
Todd Belzner, President/Owner

_____
Date

Attachment: Exhibit 1

Project #	APN	Legal Description	Owner Parcel Address/Owner Address Mailing Address	Property Interest to be Acquired	Square Footage of Property Interest to be Acquired
BU-01	103-32-008A	See attached legal description	SHIVAM Flagstaff LLC 2015 S. Beulah Blvd. Flagstaff, AZ 86001 2005 S. Milton Rd. Flagstaff, AZ 86001	Right-of-Way	2,730
BU-02	103-32-008A	See attached legal description	SHIVAM Flagstaff LLC 2015 S. Beulah Blvd. Flagstaff, AZ 86001 2005 S. Milton Rd. Flagstaff, AZ 86002	Slope Easement	581
BU-04	103-32-002B	See attached legal description	Hsuan Partnership 360 W. Forest Meadows St. Flagstaff, AZ 86001	Sidewalk Easement	240
BU-06	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Right-of-Way	1,930
BU-07	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Temporary Construction Easement	848
BU-08	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Public Utility Easement	148

BU-09	112-24-016	See attached legal description	Woodland Village Apartments 813 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Drainage Easement	651
BU-10	112-24-016	See attached legal description	Woodland Village Apartments 813 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Right-of-Way	3,545
BU-11	112-24-019	See attached legal description	Haven Flagstaff Real Estate LLC 800 W. University Ave. Flagstaff, AZ 86001 1 Whitecliff Laguna Niguel, CA 92677	Temporary Construction Easement	362
BU-12	103-21-026	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Slope Easement	7,902

BU-13	103-21-026 NORTH	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Slope Easement	456
BU-14	103-21-026	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Drainage Easement	492
BU-15	103-21-026	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-025 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	4,236
BU-18	103-21-024	See attached legal description	VP CINEMA LLC 1801 S. Milton Rd. Flagstaff, AZ 86001 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	44,335

BU-19	103-21-024	See attached legal description	VP CINEMA LLC 1801 S. Milton Rd. Flagstaff, AZ 86001 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Slope Easement	1,885
BU-22	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Right-of-Way	2,249
BU-23	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Temporary Construction Easement	4,604
BU-24	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Slope Easement	272

BU-25	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	2680
BU-26	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	5,124
BU-28	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Right-of-Way	16,341
BU-29	103-21-027	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-027 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Temporary Construction Easement	3,914

BU-31	103-21-021C	See attached legal description	Westside Property LLC 575 W. University Ave. Flagstaff, AZ 86001 43551 Mission Blvd. No. 111 Freemont, CA 94539	Temporary Construction Easement	2,618
BU-33	103-21-003	See attached legal description	MGS University LLC 600 W. University Ave. Flagstaff, AZ 86001 7117 E. Rancho Vista Dr. No. 6003 Scottsdale, AZ 85251	Temporary Construction Easement	1,060
BU-34	103-21-004	See attached legal description	Elden Properties LLC 1618 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	236
BU-35	103-21-005	See attached legal description	Daniel & Diane Borden 1612 S. Yale St. Flagstaff, AZ 86001 8767 Sunshine Ave. Flagstaff, AZ 86004	Temporary Construction Easement	215

BU-36	103-22-004D	See attached legal description	Greentree Associates LTD 1800 S. Milton Rd. Flagstaff, AZ 86001 6266 La Salle Ave. Oakland, CA 94611	Right-of-Way	494
BU-37	103-22-004D	See attached legal description	Greentree Associates LTD 1800 S. Milton Rd. Flagstaff, AZ 86001 6266 La Salle Ave. Oakland, CA 94611	Temporary Construction Easement	72
BU-38	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Right-of-Way	11,905
BU-39	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Right-of-Way (ped underpass)	3,417

BU-40	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Public Utility Easement	6,885
BU-41	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Sidewalk Easement	696
BU-42	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Bus Stop Milton	377
BU-43	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Sidewalk Easement University	3,784

BU-44	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Temporary Construction Easement	21,203
BU-45	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 PO Box 460189 Houston, TX 77056	Sidewalk Easement	1,805
BU-46	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 PO Box 460189 Houston, TX 77056	Temporary Construction Easement	9,732
BU-46	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 650 N 99th Avenue, #108 Avondale, Az 85324	Temporary Construction Easement	4,720

BU-46B	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 650 N 99th Avenue, #108 Avondale, Az 85326	Underground Infrastructure Easement	4,549
BU-47/66	103-21-021B	See attached legal description	Burger King Corporation 1765 1651 S. Milton Rd. Flagstaff, AZ 86001 650 N 99th Avenue, #108 Avondale, Az 85325	Public Water Easement	194
BU-48	No APN - ROW	See attached legal description	City of Flagstaff ROW from COF to ADOT Milton West 211 W. Aspen Ave. Flagstaff, AZ 86001	Right-of-Way	2,927
BU-49	103-22-003A	See attached legal description	Arizona Board of Regents for Northern Arizona University University Drive Flagstaff, AZ 86001 PO Box 4092 Flagstaff, AZ 86011	Right-of-Way	1,547

BU-50	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 2525 E Camelback Road Phoenix, Az 86018	Right-of-Way (Future ADOT)	431
BU-51	N/A	See attached legal description	City of Flagstaff ROW COF to 103-20-059D University Square Apt. 211 W. Aspen Ave. Flagstaff, AZ 86001	Right-of-Way	1,007
BU-52	103-22-003A	See attached legal description	Arizona Board of Regents for Northern Arizona University University Drive Flagstaff, AZ 86001 PO Box 4092 Flagstaff, AZ 86011	Drainage Easement	27,007
BU-53	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55440	Drainage Easement	148

BU-54	103-22-002A	See attached legal description	Diocese of Phoenix Catholic Cemeteries & Mortuaries 201 W. University Dr. Flagstaff, AZ 86001 2033 N. 48th St. Phoenix, AZ 85008	Drainage Easement	138
BU-55	112-24-019	See attached legal description	Haven Flagstaff Real Estate LLC 800 W. University Ave. Flagstaff, AZ 86001 1 Whitecliff Laguna Niguel, CA 92677	Sidewalk Easement	138
BU-56	103-22-004D	See attached legal description	Greentree Associates LTD 1800 S. Milton Rd. Flagstaff, AZ 86001 6266 La Salle Ave. Oakland, CA 94611	Public Utility Easement (Light Poles)	382
BU-57	103-32-001	See attached legal description	SHREEJI Flagstaff LLC 2005 S. Milton Rd. Flagstaff, AZ 86001	Drainage Easement	541

BU-59	103-19-001B	See attached legal description	Arizona Board of Regents for Northern Arizona University 1115 Knoles Dr. Flagstaff, AZ 86001 PO Box 4092 Flagstaff, AZ 86011	Drainage Easement	882
BU-60	103-20-059D	See attached legal description	University Square Apartments 700 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86003	Public Utility Easement	217
BU-61	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	357
BU-62	103-21-025	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	30

BU-63	103-21-024	See attached legal description	VP CINEMA LLC Adjacent to parcel 103-21-026 W. University Ave. 2502 E. Camelback Rd. No. 214 Phoenix, AZ 85016	Public Utility Easement	18
BU-64	103-32-008A	See attached legal description	SHIVAM Flagstaff LLC 2015 S. Beulah Blvd. Flagstaff, AZ 86001 2005 S. Milton Rd. Flagstaff, AZ 86001	Public Utility Easement	144
BU-65	103-32-008A	See attached legal description	SHIVAM Flagstaff LLC 2015 S. Beulah Blvd. Flagstaff, AZ 86001 2005 S. Milton Rd. Flagstaff, AZ 86001	Public Utility Easement	142
BU-67	103-21-006	See attached legal description	Elden Properties LLC 1606 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	50

BU-68	103-20-005	See attached legal description	Elden Properties LLC 1600 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	78
BU-69	103-20-006	See attached legal description	Elden Properties LLC 1530 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	144
BU-70	103-20-007	See attached legal description	Elden Properties LLC 1524 S. Yale St. Flagstaff, AZ 86001 PO Box 3374 Flagstaff, AZ 86003	Temporary Construction Easement	156
BU-71	103-20-008	See attached legal description	Bleeker Investments LLC 1518 S. Yale St. Flagstaff, AZ 86001 5400 E. Empire Ave. Flagstaff, AZ 86004	Temporary Construction Easement	184

BU-72	103-20-009	See attached legal description	Adrian & Laura Parra-Atayde 1512 S. Yale St. Flagstaff, AZ 86001 1845 W. Shellie Dr. Flagstaff, AZ 86001	Temporary Construction Easement	180
BU-73	103-20-010	See attached legal description	JAMB Properties of Northern Arizona LLC 1506 S. Yale St. Flagstaff, AZ 86001 3191 E. Cold Springs Trail Flagstaff, AZ 86004	Temporary Construction Easement	227
BU-74	103-20-011	See attached legal description	Adrian & Laura Parra-Atayde 1500 S. Yale St. Flagstaff, AZ 86001 1845 W. Shellie Dr. Flagstaff, AZ 86001	Temporary Construction Easement	32
BU-75	103-20-012	See attached legal description	Ronald & Christal A Stump 1426 S. Yale St. Flagstaff, AZ 86001 7609 Whitewood Way Flagstaff, AZ 86001	Temporary Construction Easement	16

BU-78	103-22-005A	See attached legal description	Consolidated Investment Co. Inc. 1650 S. Milton Rd. Flagstaff, AZ 86001 PO Box 9456, Minneapolis, MN 55441	Underground Infrastructure Easement	3,265
BU-79	112-24-016	See attached legal description	Woodland Village Apartments 813 W. University Ave. Flagstaff, AZ 86001 PO Box 3568 Flagstaff, AZ 86004	Temporary Construction Easement	701

9. J.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Katie Brandis, Dispatch Supervisor
Co-Submitter:	Stacey Brechler-Knaggs
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Grant Agreement: Arizona 911 Grant Agreement between Arizona Department of Administration Office of Grants and Federal Resources and the City of Flagstaff Acting as System Administrator for Coconino County in the amount of $943,515.00.

STAFF RECOMMENDED ACTION:

Approve the grant agreement from the Arizona Department of Administration Office of Grants and Federal Resources in the amount of $943,515.00 for the 911 budget for Coconino County.

Executive Summary:

Flagstaff Police Department acting as 911 System Administrator for Coconino County Public Safety Answering Points (PSAPs) was awarded $943,515.00 in grant funds from the Arizona Department of Administration Office of Grants and Federal Resources. This grant funds all operational costs of the 911 telephone systems for the PSAP's in Coconino County which includes: Flagstaff Police Department, Williams Police Department, Page Police Department, Grand Canyon National Park Service, and Glen Canyon National Park. The amount also includes the transition to Next Gen 911 which will include photos, video and call transcription. It also includes better redundancy and call routing.

Financial Impact:

The grant award is $943,515.00 which will fund all of Coconino County's 911 telephone system operational costs 100%. This grant is budgeted in the Police Grant Section at $550,000 for FY2023-24. Additional allocation from the other potential police grant program budget will cover the increase in this grant in FY2023-24.

Policy Impact:

We will be working with our legal department and state 911 office to determine the best policies for the accepting and evidence storage of the pictures and videos that citizens will be able to send to 911.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe and Healthy Community: Providing public safety services with resources, staff & training responsive to the community's needs.

Carbon Neutrality Plan

DD-2: Assist in providing public safety services with adequate resources and staff time in ensuring that our neighborhoods are safe for community members.

Regional Plan

Goal NH. 1. Foster and maintain healthy and diverse urban, suburban, and rural neighborhoods in the Flagstaff Region.

Has There Been Previous Council Decision on This:

Yes. The council has approved this grant since 2020.

Options and Alternatives:

Approve the acceptance of the 911 Grant Agreement.

Background/History:

Flagstaff Police Department has been designated by the Arizona Department of Administration Office of Grants and Federal Resources Office State 911 Office as the System Administrator for all PSAP's in Coconino County. The System Administrator is responsible for submitting 911 system operating bills to the Arizona Department of Administration Office of Grants and Federal Resources Office State 911 Office and submitting call statistics and required reports to the State for all PSAP's within the county. Historically the 911 telephone bills for all the PSAP's in Coconino County would be mailed to the Flagstaff Police Department. The 911 Coordinator would audit the charges on the 911 bills and send them to the State 911 Office for payment. In turn, the State 911 Office would pay the bills with money from revenues collected through the Emergency Telecommunications Services Revolving Fund. In 2018, the State 911 Office was moved to the Arizona Department of Administration Office of Grants and Federal Resources Office. With this change, the Arizona Department of Administration Office of Grants and Federal Resources created a grant program for the yearly 911 budget. System Administrators have to apply for the funds on behalf of the PSAP's in their county to pay the 911 bills. This allows the PSAP's and the System Administrators to be responsible for their bills and to be reimbursed through the grant award by the state.

Key Considerations:

Flagstaff Police Department was designated System Administrator for the PSAP's within Coconino County to include: Williams Police Department, Page Police Department, Grand Canyon National Park and Glen Canyon National Park.

Community Benefits and Considerations:

Having a 911 system allows citizens to dial three numbers to have access to emergency services instead of having to dial seven digits and go through an automated telephone system. This allows for faster responses to emergencies for every citizen. The 911 Grant will allow the PSAP's in Coconino County to have a consistent emergency response.

Community Involvement:

To work with the public to ensure that the Coconino County PSAP's have correct address information and provide exceptional emergency services Countywide.

Attachments: 911 Grant Agreement

ARIZONA DEPARTMENT OF ADMINISTRATION
ARIZONA 9-1-1 PROGRAM
GRANT AGREEMENT

Grant Number: ADOA-AZ911-24-02

This Grant Agreement (**"Agreement"**) dated as of July 1st, 2023 is between the City of Flagstaff, on behalf of the Flagstaff Police Department, acting as System Administrator, (**"Grantee"**), and the State of Arizona, acting through the Arizona Department of Administration (**"ADOA" or "Administrator"**), (Grantee and ADOA sometimes, individually, a **"Party,"** or collectively, **"Parties"**).

The Grantee is applying for the Public Safety Answering Points (PSAPs) in its service area as outlined in its current Service Plan as filed with ADOA. Grantees must submit copies of executed Memorandum of Understandings (MOUs) between each PSAP in its Service Plan and the System Administrator.

AUTHORIZATION; BACKGROUND

A.R.S § 41-704 authorizes the Arizona Department of Administration to administer the emergency telecommunication services revolving fund ("Fund") in accordance with A.R.S. 11-951; 11-952 and 41-101.01. The Arizona 9-1-1 Program ("Program") managed by the Arizona Strategic Enterprise Technology (ASET) division of ADOA, is designed to assist Public Safety Answering Points (PSAPs), in collaboration with regional and local jurisdictions, to perform activities related to implementation and operation of their respective emergency telecommunication systems.

PURPOSE OF THE AGREEMENT

The purpose of this Agreement is the distribution and administration of funding per A.R.S § 41-704. ADOA guidelines support the use of the Fund in accordance with the ARS § 41-704 for activities such as:

- Adoption and operation of Next Generation 9-1-1 (NG9-1-1) services and applications, including monthly recurring costs for 9-1-1 equipment, network, maintenance, and hardware and software support. The National Emergency Number Association (NENA) defines NG9-1-1 as: an Internet Protocol (IP) based system comprising managed Emergency services IP networks (ESInets), functional elements (applications), and databases that replicate traditional E9-1-1 features and functions and provide additional capabilities. NG9-1-1 is designed to provide access to emergency services from all connected communications sources, and provide multimedia data capabilities for PSAPs and other emergency services organizations.
- Facilitation of the migration of the State's PSAPs to the NG9-1-1 capabilities
- Migration to an ESINet
- Establishment of IP-backbone networks, connectivity, and application layer software infrastructure needed to interconnect the multitude of emergency response organizations statewide
- Implementation of solutions that meet or exceed the NENA, Federal Communications Commission (FCC), international, and industry standards or requirements.

TERM, EFFECTIVE DATE AMENDMENT, AND TERMINATION

This Agreement and the Period of Performance will be effective on July 1, 2023 and terminate on June 30, 2024, unless extended or terminated. This Agreement expires at the end of the Period of Performance unless prior written approval for an extension has been obtained by the Grantee from ADOA, subject to termination (Section 5.2).

A request for an extension must be received by ADOA, sixty (60) days prior to the end of the Period of Performance. ADOA, in its sole discretion, may approve an extension to further the goals and objectives of the Program, and determine the length of any such extension. Only critical amendments will be considered by ADOA and such amendments will only be entered into in writing and in the sole discretion of ADOA. Any requested

change, modification, or extension of this Agreement must be submitted through ADOA's online grant management system, eCivis, and approved by ADOA.

GRANTEE REPRESENTATIONS

1. Grantee represents, as a condition to the Grant Award that the following representations are true and understands that ADOA has relied upon these representations in its Award decision:

1.1 Grantee understands that for a PSAP to be eligible for funding through its System Administrator it must meet the following Criteria:

1.1.1 Monitor the 9-1-1 service system level of service to ensure that the standards in Arizona Administrative Code Section R2-1-407 are met. Once each fiscal year, the PSAP manager shall obtain a report regarding the 9-1-1 level of service from the Originating Service Provider in the local exchange area. If the report provided by the Originating Service Provider indicates that the required service level is not being met, the PSAP manager shall:

i. Request the telephone company to prepare plans, specifications, and cost estimates to raise the level of service to that required in R2-1-407.
ii. Notify the Assistant Director under R2-1-406 if, based on information provided by the telephone company, modifications to the system are necessary.

1.1.2 Provide service to all callers within its service area 24 hours each day, 7 days a week. To qualify as a primary or secondary PSAP, the PSAP must receive a minimum of three hundred (300) 9-1-1 emergency calls per month per Arizona Administrative Code Section R2-1-408.

i. If a PSAP does not receive a minimum of three hundred (300) 9-1-1 emergency calls per month, the System Administrator must submit a letter of justification explaining why the PSAP should qualify for funding. The letter of justification will be approved or disapproved in the sole discretion of the State 9-1-1 Office.

1.1.3 Refer all calls entering the 9-1-1 service system that do not require a public or private safety response unit to be dispatched to a non-9-1-1 telephone number.

1.1.4 Designate a telephone number other than 9-1-1 as a backup number in case the 9-1-1 service system fails. The designated alternate telephone number shall be published in the public telephone directory by the local public safety agency.

1.1.5 Develop and maintain a system for recording 9-1-1 calls received by the PSAP. The records shall be retained for at least 31 days from the date of the call and shall include the following information:

a. Date and time the call is received
b. Nature of the problem
c. Action taken by the dispatcher

1.1.6 Provide a current and valid GIS Support Memorandum of Understanding (MOU) with the Arizona State 9-1-1 Program to ensure that there is the ability to geospatially route calls.

1.2 Grantee represents that it has exercised its due diligence to determine that the statements in Section 1.1 are true and accurate for each PSAP that is subject to this Grant Agreement.

1.3 Grantee represents that it will monitor continued compliance by the PSAPs under its jurisdiction with the statements in Section 1.1 and agrees to inform ADOA in writing of any change in status during the term of the Period of Performance and that such change may result in a change in its Award for the duration of the Period of Performance.

1.4 Grantee must have signed GIS MOU with ADOA by June 30th, 2023 to ensure that GIS support services are provided to each applicant whether through direct service or a third party.

1.5 Grantee agrees to allow ADOA to deploy a data analytic tool provided by the Arizona 9-1-1 Program and work with all PSAPs within their 9-1-1 System and the Arizona 9-1-1 Program during implementation.

OBLIGATIONS OF THE PARTIES

2. Responsibilities of the Grantee

2.1 Grantee agrees that Grant Funds granted to it under this Agreement will be used in accordance with the approved application, applicable statutes, program rules,and guidelines.

Grantee agrees to cooperate and participate with any and all assessments, evaluation efforts or information and data collection requests, and acknowledges that ADOA has the right to obtain, reproduce, publish, or use data provided under this Award in accordance with applicable statutes, rules, and guidelines.

2.2 ADOA guidelines support the use of these Grant Funds granted under this Agreement in accordance with the ARS § 41-704 for activities as follows:

2.2.1 Equipment

Necessary or appropriate equipment or service for implementing and operating emergency telecommunication services through political subdivisions of this state. Priority shall be given to establishing emergency telecommunication services in those areas of the state that are without emergency telecommunication services. See 2.2.4 below regarding any GIS related services.

2.2.2 Contractual Costs:

a. Monthly recurring costs of emergency telecommunication services, including expenditures for capital, maintenance and operation purposes.
b. A wireless carrier's costs associated with the provision, development, design, construction and maintenance of the wireless emergency telecommunication services in an amount that the wireless carrier has not recovered through the deduction mechanism specified in federal law.

2.2.3 Administrative Costs:

ARS § 41-704, section B, subsection 2, allows Administrative Costs to be ⅓ of 5% of the total Fiscal Year 2022 State 911 Revenue to be used for necessary or appropriate costs or consultant fees. Administrative funding will be allocated using the below formula:

System Award × 1.67%. Grantee agrees that the following types of activities will be reimbursed only through Administrative Costs and subject to the aggregate limitation on such costs:

a. Personnel. Costs associated with administrative oversight of managing local contracts and technical support. Costs associated with GIS coordinator, if it is an employee of the System Administrator's agency.
b. Fringe Benefits. Employee related expenses associated with administrative oversight of managing local contracts and/or GIS coordinator.
c. Travel. Travel requests for training, conferences, etc. related to System Administrator and/or GIS coordinator functions. Travel costs will only be reimbursed based on the State rate per diem identified in SAAM 50.
d. Supplies. Costs associated with supplies related to System Administration functions.

e. Other Costs. Training or education assistance related to System Administration and/or GIS coordinator functions.

2.2.4 Special Requirements: Contractual - GIS Projects:

In order to receive funding from the Arizona State 9-1-1 Program to support GIS NG9-1-1 projects, the 9-1-1 system must meet the following requirements:

a. Have a current and valid GIS Support MOU (Memorandum of Understanding) with the Arizona State 9-1-1 Program, which outlines the terms and conditions for providing GIS services and support.
b. Be committed to comply with all GIS requirements for geospatial call routing, which includes having accurate and up-to-date geographic data for the areas covered by the 9-1-1 system.
c. Have demonstrated a need for the funding to support the implementation or maintenance of GIS capabilities. This means that the 9-1-1 system has identified specific projects or activities that require funding to improve or maintain its GIS capabilities, and has provided evidence or documentation to support the need for the funding.

Priority of GIS Work: The PSAPs are responsible for doing the GIS work in the following order of priority:

1. Directly
2. Utilizing Program Staff
3. Through existing State GIS contracts regardless of funding availability.

2.2.5 Restrictions on Use of Grant Funds:

Grant Funds granted under this Agreement may not be used for any other purposes than specifically specified above including, without limitation, for the following kinds of activities:

1. Costs associated with PSAP relocation, move, or remodel;
2. Back-up sites;
3. Late payment fees, unless approved in advance and in writing;
4. Equipment replacement not pre approved pursuant to the grant process;
5. Buildings, facilities, or vehicles.

2.3 Service Plans

Grantees must submit a current Service Plan to ADOA. If a Service Plan is not complete, a letter requesting an extension with an estimated completion date must be submitted and approved before the Grant Award and before any financial reimbursements will be made.

2.4 Memorandum of Understanding

Grantees must submit copies of executed Memorandum of Understandings (MOUs) between each System's PSAP and the System Administrator before financial reimbursements will be made. MOUs must outline the relationship between the entities to allow the System Administrator to act on behalf of the PSAP within its region.

2.5 Financial

Grantee understands that Grant Funds awarded under this Agreement may not be released until Grantee is compliant with all requirements of this Agreement. Grantee agrees to pay vendors in a timely manner on behalf of the PSAPs in their jurisdictions. Late fees on invoices will not be reimbursed by ADOA.

The final request for reimbursement of Grant Funds must be received by ADOA no later than forty-five (45) days after the last day of the Performance Period. All goods and services must be received or have

reasonable expectations thereof and placed in service by Grantee by the expiration of the Performance Period.

Grantee agrees that all encumbered Grant Funds must be expended and that goods and services must be paid within forty-five (45) days of expiration of the Performance Period. After that any unexpended Grant Funds must be remitted to ADOA.

2.6 Reporting Requirements

Grantee agrees that it will submit financial reports to ADOA in a format provided by ADOA, documenting the activities supported by the Program and this Agreement and provide an assessment of the impact of these activities. In the event reports are not received on or before the indicated date(s), funding may be suspended until such time as delinquent report(s) are received.

Grantee understands that financial reports are required as an accounting of expenditures for either reimbursement or ADOA-approved payment purposes.

Required GIS and financial reports must be submitted according to the following schedule(s):

Report Type	Due Date
Programmatic Reports - defined below	
GIS Data	Quarter 1 - September 30th, 2023 Quarter 2 - December 31st, 2023 Quarter 3 - March 31st, 2024 Quarter 4 - June 30th, 2024
Financial Reports - details below	
Monthly request for reimbursement	Monthly on the 25th

*More frequent reports may be required for Grantees who are considered high risk as determined by the Program in its sole discretion.

RESPONSIBILITIES OF THE STATE

3. It is agreed and understood that the total to be paid by ADOA under this Agreement shall not exceed $943,515 (Award). Once the financial reimbursement request is approved by ADOA, payment to Grantee will be completed within 10 business days.

APPROVED LINE ITEM PROGRAM BUDGET	
Personnel	$0.00
Fringe Benefits	$0.00
Equipment	$0.00
Contractual/Outside Services	$928,017.00
GIS Services	$0.00
Administrative Costs	$15,498.00

GRANT ADMINISTRATION AND OPERATION

4.1 Records
Under A.R.S. § 35-214 and § 35-215, the Grantee shall retain any and all Data and other "records" relating to the acquisition and performance of this Agreement for a period of five (5) years after the completion of the Award.

4.2 Non-Discrimination
The Grantee shall comply with State Executive Orders No. 2023-01, 2009-09, and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

4.3 Audit
Pursuant to A.R.S. § 35-214, at any time during the term of this Agreement and five (5) years thereafter, the Grantee's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of this Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Grantee shall produce a legible copy of any or all such records.

4.4 Facilities Inspection and Materials Testing
The Grantee agrees to permit access to its facilities, and the Grantee's processes or services, at reasonable times for inspection of the facilities or materials covered under this Award. The State shall also have the right to test, at its own cost, the materials to be supplied under this Award. Neither inspection of the Grantees facilities nor materials testing shall constitute final acceptance of the materials or services.

4.5 Advertising, Publishing and Promotion of Award
The Grantee shall not use, advertise or promote information concerning this Award without the prior written approval of the Administrator.

4.6 Immigration
In accordance with A.R.S. § 41-4401, Grantee warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23- 214, Subsection A. Grantee shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the Award. The State shall retain the right to perform random audits of Grantee records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Grantee be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the Award for default and suspension.

4.7 Personnel
Grantee warrants that its personnel will perform their duties under this Agreement in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Award.

4.8 False Statements
Grantee represents and warrants that all statements and information Grantee prepared and submitted in response to the Request for Grant Application or as part of the Grantee documents are current, complete, true, and accurate. If the Administrator determines that Grantee submitted an application with a false statement, or makes material misrepresentations during the performance of the Award, the Administrator may determine that Grantee has materially breached this Agreement and may void the submitted application and any resulting Agreement.

TERMS AND CONDITIONS

5.1 Availability of Grant Funds for the Current State Fiscal Year
Should the State Legislature enter back into session and amend A.R.S § 41-704, amend any related statute, or for any other reason, the related services will not be funded and the State may take any of the following actions:

- Decrease the Award to the Grantee;
- Cancel the Award; or
- Cancel the Award and re-solicit.

5.2 Termination

5.2.1 The State may terminate the Agreement in whole or in part due to the failure of the System Administrator to comply with any term or condition of the Agreement, or to make satisfactory progress in performing the Agreement. The State shall provide written notice of the termination and the reasons for it to the System Administrator. Upon termination under this paragraph, all documents, data, and reports prepared by the System Administrator under the Agreement shall become the property of and be delivered to the State on demand.

5.2.2 The State may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement.

5.2.3 The System Administrator shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

5.2.4 Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior approval may constitute sufficient reason for ADOA to terminate this Agreement, revoke the grant, require the return of all unspent Grant Funds, perform an audit of expended Grant Funds, and require the return of any previously spent Grant Funds which are deemed to have been spent in violation of the purpose or conditions of this grant.

5.3 Entire Agreement
This Agreement contains the entire Agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous Agreements, understandings, and inducements, whether express or implied, oral or written. This Agreement has been arrived at by negotiation and shall not be construed for or against any Party.

5.4 Waiver
The failure of either Party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed by the other Party or to take any action permitted by this Agreement shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either Party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.

5.5 Governing Law
The substantive laws of Arizona (without reference to any choice of law principles) shall govern the interpretation, validity, performance and enforcement of this Agreement. The Parties further agree to cooperate in all ways reasonable and necessary to comply with the applicable statutes, including amending this Agreement as needed in the future and making any refunds or payments that might be required to bring the Parties into full compliance with applicable law.

5.6 Assignment; Delegation

Nothing in this Agreement is intended to create any third-party beneficiary rights; and the State and the Grantee expressly state that this Agreement does not create any third-party rights of enforcement. Except as expressly provided herein, no Party may delegate or assign its rights or responsibilities under this Agreement without prior written approval of the other Party and any purported assignment or delegation in violation of this provision shall be void.

5.7 Counterparts
This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.

5.8 Business Day
If the last day of any time stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

5.9 Arbitration
The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.RS. § 12-1518, except as may be required by other applicable statutes.

5.10 Notifications
If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.

All notices required or permitted under this Agreement shall be given in writing and addressed as follows:

A. If to the Arizona 9-1-1 Program of ADOA:
Arizona Department of Administration
100 North 15th Avenue, Suite 302
Phoenix, AZ 85007
Attention: Arizona 9-1-1 Program

B. If to the Grantee:
Flagstaff Communications Center
911 E Sawmill Rd
Flagstaff, AZ 86001
ATTENTION: Katie Brandis

IN WITNESS WHEREOF, the parties have made and executed the Agreement for the date first above written.

FOR GRANTEE:

Authorized Signatory	Date
Printed Name and Title	Date
Additional signature(s) if required by political subdivision	Date
Printed Name and Title	Date

FOR ARIZONA DEPARTMENT OF ADMINISTRATION:

Arizona 9-1-1 Program Arizona Department of Administration	Date

9. K.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Katie Brandis, Dispatch Supervisor
Co-Submitter:	Stacey Brechler-Knaggs
Date:	06/15/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Approve the Cooperative Purchase Contract with AT&T Corp. in the amount of $2,340,156.05 to transition to the Next Gen 9-1-1 Call System and Equipment.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with AT&T Corp. in the amount of $2,340,156.05 to transition to the Next Gen 9-1-1 Call System and Equipment; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Flagstaff Police Department (FPD) has been designated by the Arizona Department of Administration Office (ADOA) of Grants and Federal Resources Office State 9-1-1 Office as the System Administrator for all Primary Service Answering Points (PSAPs) in Coconino County. Those PSAPs include the Flagstaff Police Department, Williams Police Department, Page Police Department, Grand Canyon National Park, and Glen Canyon National Park.

As the System Administrator, FPD is responsible for submitting 9-1-1 system operating bills to the ADOA Office of Grants and Federal Resources Office State 9-1-1 Office. FPD is also responsible for submitting call statistics and required reports to the State for the PSAP's within Coconino County. FPD will be utilizing the Next Gen 9-1-1 Call System and Equipment to allow citizens to submit pictures and videos to 9-1-1. The AT&T Corp Cooperative Purchase Contract will assist with call transcription, build a stronger infrastructure with better redundancy to reduce the instances of 9-1-1 lines going down due to minor infrastructure issues, and allow more call routing if the dispatch center should need to evacuate.

The ADOA State Procurement Office prepared a Request for Proposal, Solicitation #BPM003444 for the AZ Strategic Enterprise Technology Office for the State NG911 Program for Call-Handling Equipment. AT&T Corp was selected for the award. AT&T Corp provided quotes for each of the PSAPs in Coconino County (attached). The Cooperative Purchase Contract with AT&T Corp will give the City of Flagstaff the ability to purchase the Next Gen 9-1-1 Call System and Equipment in the amount of $2,340,156.05 for a term of five (5) years.

The City of Flagstaff will receive a 100% reimbursement of the Cooperative Purchase Contract from the State of Arizona 9-1-1 office.

Financial Impact:

The cost of $2,340,156.05 will be 100% reimbursed by the State of Arizona 9-1-1 office. FPD has a budget $550,000 for the Cooperative Purchase Contract in FY2023-24 in account number 001-04-062-6246-2-4211.

Policy Impact:

FPD will work with the City Attorney's Office and the State of Arizona 9-1-1 office to determine best practices for submitting and storage of video, pictures and transcription through the AT&T Next Gen 9-1-1 Call System and Equipment.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe and Healthy Community: Providing public safety services with resources, staff & training responsive to the community's needs.

Carbon Neutrality Plan

DD-2: Assist in providing public safety services with adequate resources and staff time in ensuring that our neighborhoods are safe for community members.

Regional Plan

Goal NH. 1. Foster and maintain healthy and diverse urban, suburban, and rural neighborhoods in the Flagstaff Region.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

1. Approve the Cooperative Purchase Contract with AT&T Corp for the Next Gen 9-1-1 Call System and Equipment in the amount of $2,340,156.05 which will be reimbursed by the State of Arizona 9-1-1 office; or
2. Decline the Cooperative Purchase Contract. This option is not recommended by staff as it will result in not receiving a 100% grant reimbursement and not updating the current 9-1-1 system as is necessary.

Key Considerations:

- Flagstaff Police Department has been designated the Sytem Administrator for all the PSAPs in Coconino County.
- Arizona Department of Administration, State Procurement Office prepared a Request for Proposal, Solicitation #BPM003444 for the AZ Strategic Enterprise Technology Office for the State NG911 Program for Call-Handling Equipment.
- AT&T Corp was selected for the award and provided quotes for each PSAP.
- City needs to authorize a purchase order to AT&T in the amount of $2,340,156.05.
- The purchase order with AT&T needs to be for the full five (5) years.
- The state will reimburse the city for the full amount of the state funded quotes in the amount of $2,340,156.05

Community Benefits and Considerations:

Having a 9-1-1 system allows citizens to dial three numbers to have access to emergency services instead of having to dial seven digits and go through an automated telephone system. This allows for faster responses to emergencies for every citizen. The Cooperative Purchase Contract with AT&T Corp implementing Next Gen 9-1-1 will improve redundancy and infrastructure to ensure that communities have the best 9-1-1 system available.

Attachments:
AT&T Cooperative Purchase Contract
Flagstaff Next Gen Agreement
Glen Canyon Next Gen Agreement
Grand Canyon Next Gen Agreement
Page Next Gen Agreement
Williams Next Gen Agreement
Exhibit B1 - Agency Contract
Exhibit B2 - Agency Contract

COOPERATIVE PURCHASE CONTRACT
Contract No. CO-2023-148

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 2023 by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and AT&T Corp, an Illinois corporation ("Contractor").

RECITALS:

A. Contractor has a Government Purchasing Cooperative Contract CTR055782 with the State of Arizona to supply materials and/or services ("Agency Contract"), which was awarded through a competitive and open procurement process;

B. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

AT&T Next Gen 9-1-1 Call System & Equipment

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Scope of Work, *Exhibit A* and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided shall be **two million three hundred forty thousand one hundred fifty-six dollars and five cents ($2,340,156.05), in addition to taxes and other charges**; made in accordance with the price list and terms set forth in the Agency Contract. Any price adjustment must be approved by mutual written consent of the parties through a formal amendment. The City Manager or his/her designee (the Purchasing Director) may approve an amendment if the amendment price increase is less than $50,000; otherwise, City Council approval is required.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in *Exhibit B*, attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

8. Notice: Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:
Stacey Brechler-Knaggs
Grants, Contracts, & Emergency Management Director
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
sknaggs@flagstaffaz.gov
Phone: 928-213-2227

To Contractor:
Marco Rivas
Strategic Account Lead
AT&T Corp.
1 AT&T Way
Bedminster, NJ 07921
m9998@att.com
Phone: 602-625-0791

With a copy to:
Liane Garcia
Buyer
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
lgarcia@flagstaffaz.gov
Phone: 928-213-2279

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CONTRACTOR:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

EXHIBIT A
SCOPE OF WORK
(Attached)

1. Quote Summary Flagstaff PD – 2 pages
2. Quote Summary Glen Canyon – 2 pages
3. Quote Summary Grand Canyon – 2 pages
4. Quote Summary Page PD – 2 pages
4. Quote Summary Williams PD – 2 pages

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EXHIBIT B
AGENCY CONTRACT
(Attached)

1. State of Arizona Contract Documents – 139 pages
2. AT&T Corp Award Letter – 1 page

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Quote Summary
Flagstaff PD
CHaaS

DATE **4/14/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(10) VESTA IWS Positions
Tier 2 - Dual AVPN



VESTA (10) Positions (Tab: AT&T CHaaS, Row 56 and 57)		
Total Non-Recurring Charge:	$	38,829.00
Total Monthly Recurring Charge:	$	7,521.00
60 MONTH TOTAL:	**$**	**490,089.00**
(Additional) (10) 24" flat panel wide screen monitor (Tab: Options, Row 28)		
Total Non-Recurring Charge:	$	5,315.00
Total Monthly Recurring Charge:	$	25.00
60 MONTH TOTAL:	**$**	**6,815.00**
UPS for Front (10) andor Back Room (4) (Tab: Options, Row 41 and 42)		
Total Non-Recurring Charge:	$	18,416.20
Total Monthly Recurring Charge:	$	176.00
60 MONTH TOTAL:	**$**	**28,976.20**
(Additional) Gateways (Tab: Options, Row 20)		
Total Non-Recurring Charge:	$	29,343.20
Total Monthly Recurring Charge:	$	277.00
60 MONTH TOTAL:	**$**	**45,963.20**
VESTA Map Local (Tab: Options (2), Row 19 and 20)		
Total Non-Recurring Charge:	$	5,114.80
Total Monthly Recurring Charge:	$	1,129.40
60 MONTH TOTAL:	**$**	**72,878.80**
Enhanced Data Window (Tab: Options, Row 13)		
Total Non-Recurring Charge:	$	3,033.80
Total Monthly Recurring Charge:	$	105.70
60 MONTH TOTAL:	**$**	**9,375.80**
Citizen Input/Smart Transcription - (10) Positions (Tab: Options, Row 10 and 11)		
Total Non-Recurring Charge:	$	15,904.40
Total Monthly Recurring Charge:	$	2,482.50
60 MONTH TOTAL:	**$**	**164,854.40**
Automatic Abandoned Callback (Tab: Options, Row 12)		
Total Non-Recurring Charge:	$	21,707.80
Total Monthly Recurring Charge:	$	161.40
60 MONTH TOTAL:	**$**	**31,391.80**
(Additional) Training (Tab: Options (2), Row 32 and 37)		
Total Non-Recurring Charge:	$	3,091.30
Total Monthly Recurring Charge:	$	-
60 MONTH TOTAL:	**$**	**3,091.30**
SUB-TOTAL For CHaaS:	**$**	**853,435.50**
ESInet for CHaaS ("A" Route Primary AVPN)		
Total Non-Recurring Charge:	$	-
Total Monthly Recurring Charge:	$	1,379.00
60 MONTH TOTAL:	**$**	**82,740.00**

Proprietary Information: Not for use or disclosure outside of
AT&T, AZDOA, and PSAP except under written consent.

DATE	**4/14/2023**	**Quote Summary**	
VERSION	**4.3 P4**	**Flagstaff PD**	
Account Manager	Jeff Reeve	**CHaaS**	
Phone	714-227-1268		
Email	ju7072@att.com		

Motorola
(10) VESTA IWS Positions
Tier 2 - Dual AVPN

AT&T

ESInet for CHaaS ("B" Route Secondary AVPN)		
Total Non-Recurring Charge:	$	-
Total Monthly Recurring Charge:	$	897.81
60 MONTH TOTAL:	**$**	**53,868.60**
ESInet for CHaaS ("C" Route Broadband)		
Total Non-Recurring Charge:	$	410.00
Total Monthly Recurring Charge:	$	84.55
60 MONTH TOTAL:	**$**	**5,483.00**
ESInet for CHaaS ("D" Route) FIRSTNET (Tab: Options (3), Row 20 and 21)		
Total Non-Recurring Charge:	$	1,300.00
Total Monthly Recurring Charge:	$	37.00
60 MONTH TOTAL:	**$**	**3,520.00**
SUB-TOTAL For ESInet For CHaaS:	**$**	**140,128.60**
FIRSTNET NRC Discount:	**$**	**(1,300.00)**
NON-RECURRING GRAND TOTAL:	**$**	**141,165.50**
MONTHLY RECURRING GRAND TOTAL:	**$**	**14,276.36**
0.75% NRC CHAAS Position Discount 300-399	**$**	**(1,058.74)**
0.75% MRC CHAAS Position Discount 300-399	**$**	**(107.07)**
NON-RECURRING GRAND TOTAL:	**$**	**140,106.76**
MONTHLY RECURRING GRAND TOTAL:	**$**	**14,169.29**
60 MONTH GRAND TOTAL:	**$**	**990,264.00**

Quote Valid For 120 Days

Notes:

Prices quoted here reflect the pricing, terms and conditions set forth in that certain contract between AT&T and the State of Arizona, #CTR055782, dated June 18 2021 (the "Contract"). The terms and conditions set forth in the Contract apply to all orders placed pursuant to this quote. Unless agreed upon by both parties in writing, any contractual terms and conditions placed in the corresponding Order are deemed void and do not apply.

1. This quote is for a CHaaS VESTA system with (10) IWS Positions, (0) Laptop Position, (0) docking station, and (0) IP phone.
2. This quote includes (10) 24" additional wide screen monitors for a total of two (2) per position.
3. This quote DOES NOT include VESTA Analytics.
4. This quote includes VESTA Map Local for (10) positions.
5. This quote includes Motorola on-site training for VESTA.
6. This quote includes (10) 4-Port KVMs.
7. This quote includes (10) 48-button Genovation keypads.
8. This quote DOES NOT include a NetClock system.
9. This quote Includes UPS; Backroom (4) and for front room (10) positions
10. This quote includes Motorola's managed services.
11. In addition to the (1) VESTA Agent Training class, (1) VESTA Admin Training class, and (1) Cutover Coaching class. Per PSAP request, this quote also includes additional:
    - (1) VESTA Admin Training classes
    - (4) VESTA Agent Training classes
12. Per discussion with AZDOA, removed "additional" FXS gateways.
13. This quote includes FIRSTNET as a 3rd network connection.
14. This quote includes (0) additional postion at the PSAP request for a total of (10) positions.
15. Citizen Input/Smart Transcription service requires internet service.
16. This quote includes (1) network printer.
17. Includes (2) bundled FXO's Gateways and (0) additional FXO's.
18. Includes (1) additional T1.
19. This quote inlcudes (0) 55' Wallboard monitor

Proprietary Information: Not for use or disclosure outside of AT&T, AZDOA, and PSAP except under written consent.

Quote Summary
Glen Cyn
CHaaS

DATE	**4/14/2023**
VERSION	**4.3 P4**
Account Manager	Jeff Reeve
Phone	714-227-1268
Email	ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

VESTA (2) Positions (Tab: AT&T CHaaS, Row 56 and 57)		
Total Non-Recurring Charge:	$	15,737.00
Total Monthly Recurring Charge:	$	1,153.40
60 MONTH TOTAL:	**$**	**84,941.00**
(Additional) (2) 24" flat panel wide screen monitor (Tab: Options, Row 28)		
Total Non-Recurring Charge:	$	1,063.00
Total Monthly Recurring Charge:	$	5.00
60 MONTH TOTAL:	**$**	**1,363.00**
UPS for Front (2) and Back Room (4) (Tab: Options, Row 41 and 42)		
Total Non-Recurring Charge:	$	10,727.40
Total Monthly Recurring Charge:	$	102.40
60 MONTH TOTAL:	**$**	**16,871.40**
(Additional) Gateways (Tab: Options, Row 20)		
Total Non-Recurring Charge:	$	19,863.90
Total Monthly Recurring Charge:	$	178.50
60 MONTH TOTAL:	**$**	**30,573.90**
VESTA Map Local (Tab: Options (2), Row 19 and 20)		
Total Non-Recurring Charge:	$	3,940.40
Total Monthly Recurring Charge:	$	284.60
60 MONTH TOTAL:	**$**	**21,016.40**
Enhanced Data Window (Tab: Options, Row 13)		
Total Non-Recurring Charge:	$	3,033.80
Total Monthly Recurring Charge:	$	105.70
60 MONTH TOTAL:	**$**	**9,375.80**
Citizen Input/Smart Transcription - (2) Positions (Tab: Options, Row 10 and 11)		
Total Non-Recurring Charge:	$	14,730.00
Total Monthly Recurring Charge:	$	852.90
60 MONTH TOTAL:	**$**	**65,904.00**
Automatic Abandoned Callback (Tab: Options, Row 12)		
Total Non-Recurring Charge:	$	21,707.80
Total Monthly Recurring Charge:	$	161.40
60 MONTH TOTAL:	**$**	**31,391.80**
(Additional) Training (Tab: Options (2), Row 32 and 37)		
Total Non-Recurring Charge:	$	383.20
Total Monthly Recurring Charge:	$	-
60 MONTH TOTAL:	**$**	**383.20**
SUB-TOTAL For CHaaS:	**$**	**261,820.50**

Proprietary Information: Not for use or disclosure outside of
AT&T, AZDOA, and PSAP except under written consent.

Quote Summary
Glen Cyn
CHaaS

DATE **4/14/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

ESInet for CHaaS ("A" Route Primary AVPN)		
Total Non-Recurring Charge:	$	-
Total Monthly Recurring Charge:	$	744.00
60 MONTH TOTAL:	**$**	**44,640.00**
ESInet for CHaaS ("B" Route Broadband)		
Total Non-Recurring Charge:	$	350.00
Total Monthly Recurring Charge:	$	89.99
60 MONTH TOTAL:	**$**	**5,749.40**
ESInet for CHaaS ("C" Route) FIRSTNET (Tab: Options (3), Row 20 and 21)		
Total Non-Recurring Charge:	$	1,300.00
Total Monthly Recurring Charge:	$	37.00
60 MONTH TOTAL:	**$**	**3,520.00**
SUB-TOTAL For ESInet For CHaaS:	**$**	**53,909.40**
FIRSTNET NRC Discount:	**$**	**(1,300.00)**
NON-RECURRING GRAND TOTAL:	**$**	**91,536.50**
MONTHLY RECURRING GRAND TOTAL:	**$**	**3,714.89**
0.75% NRC CHAAS Position Discount 300-399	**$**	**(685.52)**
0.75% MRC CHAAS Position Discount 300-399	**$**	**(26.86)**
NON-RECURRING GRAND TOTAL:	**$**	**90,850.98**
MONTHLY RECURRING GRAND TOTAL:	**$**	**3,688.03**
60 MONTH GRAND TOTAL:	**$**	**312,132.68**

Quote Valid For 120 Days

Notes:

Prices quoted here reflect the pricing, terms and conditions set forth in that certain contract between AT&T and the State of Arizona, #CTR055782, dated June 18 2021 (the "Contract"). The terms and conditions set forth in the Contract apply to all orders placed pursuant to this quote. Unless agreed upon by both parties in writing, any contractual terms and conditions placed in the corresponding Order are deemed void and do not apply.

1. This quote is for a CHaaS VESTA system with (2) IWS Positions, (0) Laptop Position, (0) docking station, and (0) IP phone.
2. This quote includes (2) 24" additional wide screen monitors for a total of two (2) per position.
3. This quote DOES NOT include VESTA Analytics.
4. This quote includes VESTA Map Local for (2) positions.
5. This quote includes Motorola on-site training for VESTA.
6. This quote includes (2) 4-Port KVMs.
7. This quote includes (2) 48-button Genovation keypads.
8. This quote DOES NOT include a NetClock system.
9. This quote Includes UPS; Backroom (4) and for front room (2) positions
10. This quote includes Motorola's managed services.
11. In addition to the (1) VESTA Agent Training class, (1) VESTA Admin Training class, and (1) Cutover Coaching class. Per PSAP request, this quote also includes additional:
    - (0) VESTA Admin Training classes
    - (1) VESTA Agent Training classes
12. Per discussion with AZDOA, removed "additional" FXS gateways.
13. This quote includes FIRSTNET as a 3rd network connection.
14. This quote includes (0) additional postion at the PSAP request for a total of (2) positions.
15. Citizen Input/Smart Transcription service requires internet service.
16. This quote includes (1) network printer.
17. Includes (2) bundled FXO's Gateways and (0) additional FXO's.
18. Includes (0) additional T1.
19. This quote inlcudes (0) 55' Wallboard monitor

Proprietary Information: Not for use or disclosure outside of
AT&T, AZDOA, and PSAP except under written consent.

Quote Summary
Grand Cyn
CHaaS

DATE **4/27/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

VESTA (2) Positions (Tab: AT&T CHaaS, Row 56 and 57)		
Total Non-Recurring Charge:	$	15,737.00
Total Monthly Recurring Charge:	$	1,558.20
60 MONTH TOTAL:	**$**	**109,229.00**
(Additional) (2) 24" flat panel wide screen monitor (Tab: Options, Row 28)		
Total Non-Recurring Charge:	$	1,063.00
Total Monthly Recurring Charge:	$	5.00
60 MONTH TOTAL:	**$**	**1,363.00**
UPS for Front (2) and Back Room (4) (Tab: Options, Row 41 and 42)		
Total Non-Recurring Charge:	$	10,727.40
Total Monthly Recurring Charge:	$	102.40
60 MONTH TOTAL:	**$**	**16,871.40**
(Additional) Gateways (Tab: Options, Row 20)		
Total Non-Recurring Charge:	$	48,301.80
Total Monthly Recurring Charge:	$	474.00
60 MONTH TOTAL:	**$**	**76,741.80**
VESTA Map Local (Tab: Options (2), Row 19 and 20)		
Total Non-Recurring Charge:	$	3,940.40
Total Monthly Recurring Charge:	$	284.60
60 MONTH TOTAL:	**$**	**21,016.40**
Enhanced Data Window (Tab: Options, Row 13)		
Total Non-Recurring Charge:	$	3,033.80
Total Monthly Recurring Charge:	$	105.70
60 MONTH TOTAL:	**$**	**9,375.80**
Citizen Input/Smart Transcription - (2) Positions (Tab: Options, Row 10 and 11)		
Total Non-Recurring Charge:	$	14,730.00
Total Monthly Recurring Charge:	$	852.90
60 MONTH TOTAL:	**$**	**65,904.00**
Automatic Abandoned Callback (Tab: Options, Row 12)		
Total Non-Recurring Charge:	$	21,707.80
Total Monthly Recurring Charge:	$	161.40
60 MONTH TOTAL:	**$**	**31,391.80**
(Additional) Training (Tab: Options (2), Row 32 and 37)		
Total Non-Recurring Charge:	$	383.20
Total Monthly Recurring Charge:	$	-
60 MONTH TOTAL:	**$**	**383.20**
SUB-TOTAL For CHaaS:	**$**	**332,276.40**
ESInet for CHaaS ("A" Route Primary AVPN)		
Total Non-Recurring Charge:	$	-
Total Monthly Recurring Charge:	$	744.00
60 MONTH TOTAL:	**$**	**44,640.00**

Proprietary Information: Not for use or disclosure outside of
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Quote Summary
Grand Cyn
CHaaS

DATE	**4/27/2023**
VERSION	**4.3 P4**
Account Manager	Jeff Reeve
Phone	714-227-1268
Email	ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

ESInet for CHaaS ("B" Route Broadband)		
Total Non-Recurring Charge:	$	410.00
Total Monthly Recurring Charge:	$	84.55
60 MONTH TOTAL:	**$**	**5,483.00**
ESInet for CHaaS ("C" Route) FIRSTNET (Tab: Options (3), Row 20 and 21)		
Total Non-Recurring Charge:	$	1,300.00
Total Monthly Recurring Charge:	$	37.00
60 MONTH TOTAL:	**$**	**3,520.00**
SUB-TOTAL For ESInet For CHaaS:	**$**	**53,643.00**
FIRSTNET NRC Discount:	**$**	**(1,300.00)**
NON-RECURRING GRAND TOTAL:	**$**	**120,034.40**
MONTHLY RECURRING GRAND TOTAL:	**$**	**4,409.75**
0.75% NRC CHAAS Position Discount 300-399	**$**	**(899.26)**
0.75% MRC CHAAS Position Discount 300-399	**$**	**(32.07)**
NON-RECURRING GRAND TOTAL:	**$**	**119,135.14**
MONTHLY RECURRING GRAND TOTAL:	**$**	**4,377.68**
60 MONTH GRAND TOTAL:	**$**	**381,795.75**

Quote Valid For 120 Days

Notes:

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1. This quote is for a CHaaS VESTA system with (2) IWS Positions, (0) Laptop Position, (0) docking station, and (0) IP phone.
2. This quote includes (2) 24" additional wide screen monitors for a total of two (2) per position.
3. This quote DOES NOT include VESTA Analytics.
4. This quote includes VESTA Map Local for (2) positions.
5. This quote includes Motorola on-site training for VESTA.
6. This quote includes (2) 4-Port KVMs.
7. This quote includes (2) 48-button Genovation keypads.
8. This quote DOES NOT include a NetClock system.
9. This quote Includes UPS; Backroom (4) and for front room (2) positions
10. This quote includes Motorola's managed services.
11. In addition to the (1) VESTA Agent Training class, (1) VESTA Admin Training class, and (1) Cutover Coaching class. Per PSAP request, this quote also includes additional:
    - (0) VESTA Admin Training classes
    - (1) VESTA Agent Training classes
12. Per discussion with AZDOA, removed "additional" FXS gateways.
13. This quote includes FIRSTNET as a 3rd network connection.
14. This quote includes (0) additional postion at the PSAP request for a total of (2) positions.
15. Citizen Input/Smart Transcription service requires internet service.
16. This quote includes (1) network printer.
17. Includes (2) bundled FXO's Gateways and (0) additional FXO's.
18. Includes (1) additional T1.

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Quote Summary
Page PD
CHaaS

DATE **4/14/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

VESTA (2) Positions (Tab: AT&T CHaaS, Row 56 and 57)		
Total Non-Recurring Charge:	$	15,737.00
Total Monthly Recurring Charge:	$	1,558.20
60 MONTH TOTAL:	**$**	**109,229.00**
(Additional) (2) 24" flat panel wide screen monitor (Tab: Options, Row 28)		
Total Non-Recurring Charge:	$	1,063.00
Total Monthly Recurring Charge:	$	5.00
60 MONTH TOTAL:	**$**	**1,363.00**
UPS for Front (2) and Back Room (4) (Tab: Options, Row 41 and 42)		
Total Non-Recurring Charge:	$	10,727.40
Total Monthly Recurring Charge:	$	102.40
60 MONTH TOTAL:	**$**	**16,871.40**
(Additional) Gateways (Tab: Options, Row 20)		
Total Non-Recurring Charge:	$	24,150.90
Total Monthly Recurring Charge:	$	237.00
60 MONTH TOTAL:	**$**	**38,370.90**
VESTA Map Local (Tab: Options (2), Row 19 and 20)		
Total Non-Recurring Charge:	$	3,940.40
Total Monthly Recurring Charge:	$	284.60
60 MONTH TOTAL:	**$**	**21,016.40**
Enhanced Data Window (Tab: Options, Row 13)		
Total Non-Recurring Charge:	$	3,033.80
Total Monthly Recurring Charge:	$	105.70
60 MONTH TOTAL:	**$**	**9,375.80**
Citizen Input/Smart Transcription - (2) Positions (Tab: Options, Row 10 and 11)		
Total Non-Recurring Charge:	$	14,730.00
Total Monthly Recurring Charge:	$	852.90
60 MONTH TOTAL:	**$**	**65,904.00**
Automatic Abandoned Callback (Tab: Options, Row 12)		
Total Non-Recurring Charge:	$	21,707.80
Total Monthly Recurring Charge:	$	161.40
60 MONTH TOTAL:	**$**	**31,391.80**
(Additional) Training (Tab: Options (2), Row 32 and 37)		
Total Non-Recurring Charge:	$	3,091.30
Total Monthly Recurring Charge:	$	-
60 MONTH TOTAL:	**$**	**3,091.30**
SUB-TOTAL For CHaaS:	**$**	**296,613.60**
ESInet for CHaaS ("A" Route Primary AVPN)		
Total Non-Recurring Charge:	$	-
Total Monthly Recurring Charge:	$	648.27
60 MONTH TOTAL:	**$**	**38,896.20**

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AT&T, AZDOA, and PSAP except under written consent.

Quote Summary
Page PD
CHaaS

DATE **4/14/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

ESInet for CHaaS ("B" Route Broadband)		
Total Non-Recurring Charge:	$	350.00
Total Monthly Recurring Charge:	$	89.99
60 MONTH TOTAL:	**$**	**5,749.40**
ESInet for CHaaS ("C" Route) FIRSTNET (Tab: Options (3), Row 20 and 21)		
Total Non-Recurring Charge:	$	1,300.00
Total Monthly Recurring Charge:	$	37.00
60 MONTH TOTAL:	**$**	**3,520.00**
SUB-TOTAL For ESInet For CHaaS:	**$**	**48,165.60**
FIRSTNET NRC Discount:	**$**	**(1,300.00)**
NON-RECURRING GRAND TOTAL:	**$**	**98,531.60**
MONTHLY RECURRING GRAND TOTAL:	**$**	**4,082.46**
0.75% NRC CHAAS Position Discount 300-399	**$**	**(737.99)**
0.75% MRC CHAAS Position Discount 300-399	**$**	**(29.62)**
NON-RECURRING GRAND TOTAL:	**$**	**97,793.61**
MONTHLY RECURRING GRAND TOTAL:	**$**	**4,052.84**
60 MONTH GRAND TOTAL:	**$**	**340,964.11**

Quote Valid For 120 Days

Notes:

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1. This quote is for a CHaaS VESTA system with (2) IWS Positions, (0) Laptop Position, (0) docking station, and (0) IP phone.
2. This quote includes (2) 24" additional wide screen monitors for a total of two (2) per position.
3. This quote DOES NOT include VESTA Analytics.
4. This quote includes VESTA Map Local for (2) positions.
5. This quote includes Motorola on-site training for VESTA.
6. This quote includes (2) 4-Port KVMs.
7. This quote includes (2) 48-button Genovation keypads.
8. This quote DOES NOT include a NetClock system.
9. This quote Includes UPS; Backroom (4) and for front room (2) positions
10. This quote includes Motorola's managed services.
11. In addition to the (1) VESTA Agent Training class, (1) VESTA Admin Training class, and (1) Cutover Coaching class. Per PSAP request, this quote also includes additional:
    - (0) VESTA Admin Training classes
    - (1) VESTA Agent Training classes
12. Per discussion with AZDOA, removed "additional" FXS gateways.
13. This quote includes FIRSTNET as a 3rd network connection.
14. This quote includes (0) additional postion at the PSAP request for a total of (2) positions.
15. Citizen Input/Smart Transcription service requires internet service.
16. This quote includes (1) network printer.
17. Includes (1) bundled FXO's Gateways and (0) additional FXO's.
18. Includes (1) additional T1.
19. This quote inlcudes (0) 55' Wallboard monitor

Proprietary Information: Not for use or disclosure outside of
AT&T, AZDOA, and PSAP except under written consent.

Quote Summary
Williams PD
CHaaS

DATE **4/14/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

VESTA (2) Positions (Tab: AT&T CHaaS, Row 56 and 57)		
Total Non-Recurring Charge:	$	15,737.00
Total Monthly Recurring Charge:	$	1,558.20
60 MONTH TOTAL:	**$**	**109,229.00**
(Additional) (2) 24" flat panel wide screen monitor (Tab: Options, Row 28)		
Total Non-Recurring Charge:	$	1,063.00
Total Monthly Recurring Charge:	$	5.00
60 MONTH TOTAL:	**$**	**1,363.00**
UPS for Front (2) and Back Room (4) (Tab: Options, Row 41 and 42)		
Total Non-Recurring Charge:	$	10,727.40
Total Monthly Recurring Charge:	$	102.40
60 MONTH TOTAL:	**$**	**16,871.40**
(Additional) Gateways (Tab: Options, Row 20)		
Total Non-Recurring Charge:	$	10,384.60
Total Monthly Recurring Charge:	$	80.00
60 MONTH TOTAL:	**$**	**15,184.60**
VESTA Map Local (Tab: Options (2), Row 19 and 20)		
Total Non-Recurring Charge:	$	3,940.40
Total Monthly Recurring Charge:	$	284.60
60 MONTH TOTAL:	**$**	**21,016.40**
Enhanced Data Window (Tab: Options, Row 13)		
Total Non-Recurring Charge:	$	3,033.80
Total Monthly Recurring Charge:	$	105.70
60 MONTH TOTAL:	**$**	**9,375.80**
Citizen Input/Smart Transcription - (2) Positions (Tab: Options, Row 10 and 11)		
Total Non-Recurring Charge:	$	14,730.00
Total Monthly Recurring Charge:	$	852.90
60 MONTH TOTAL:	**$**	**65,904.00**
Automatic Abandoned Callback (Tab: Options, Row 12)		
Total Non-Recurring Charge:	$	21,707.80
Total Monthly Recurring Charge:	$	161.40
60 MONTH TOTAL:	**$**	**31,391.80**
(Additional) Training (Tab: Options (2), Row 32 and 37)		
Total Non-Recurring Charge:	$	383.20
Total Monthly Recurring Charge:	$	-
60 MONTH TOTAL:	**$**	**383.20**
SUB-TOTAL For CHaaS:	**$**	**270,719.20**
ESInet for CHaaS ("A" Route Primary AVPN)		
Total Non-Recurring Charge:	$	-
Total Monthly Recurring Charge:	$	648.27
60 MONTH TOTAL:	**$**	**38,896.20**

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AT&T, AZDOA, and PSAP except under written consent.

Quote Summary
Williams PD
CHaaS

DATE **4/14/2023**
VERSION **4.3 P4**
Account Manager Jeff Reeve
Phone 714-227-1268
Email ju7072@att.com

Motorola
(2) VESTA IWS Positions
Tier 1

ESInet for CHaaS ("B" Route Broadband)		
Total Non-Recurring Charge:	$	410.00
Total Monthly Recurring Charge:	$	84.55
60 MONTH TOTAL:	**$**	**5,483.00**
ESInet for CHaaS ("C" Route) FIRSTNET (Tab: Options (3), Row 20 and 21)		
Total Non-Recurring Charge:	$	1,300.00
Total Monthly Recurring Charge:	$	37.00
60 MONTH TOTAL:	**$**	**3,520.00**
SUB-TOTAL For ESInet For CHaaS:	**$**	**47,899.20**
FIRSTNET NRC Discount:	**$**	**(1,300.00)**
NON-RECURRING GRAND TOTAL:	**$**	**82,117.20**
MONTHLY RECURRING GRAND TOTAL:	**$**	**3,920.02**
0.75% NRC CHAAS Position Discount 300-399	**$**	**(614.88)**
0.75% MRC CHAAS Position Discount 300-399	**$**	**(28.40)**
NON-RECURRING GRAND TOTAL:	**$**	**81,502.32**
MONTHLY RECURRING GRAND TOTAL:	**$**	**3,891.62**
60 MONTH GRAND TOTAL:	**$**	**314,999.51**

Quote Valid For 120 Days

Notes:

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1. This quote is for a CHaaS VESTA system with (2) IWS Positions, (0) Laptop Position, (0) docking station, and (0) IP phone.
2. This quote includes (2) 24" additional wide screen monitors for a total of two (2) per position.
3. This quote DOES NOT include VESTA Analytics.
4. This quote includes VESTA Map Local for (2) positions.
5. This quote includes Motorola on-site training for VESTA.
6. This quote includes (2) 4-Port KVMs.
7. This quote includes (2) 48-button Genovation keypads.
8. This quote DOES NOT include a NetClock system.
9. This quote Includes UPS; Backroom (4) and for front room (2) positions
10. This quote includes Motorola's managed services.
11. In addition to the (1) VESTA Agent Training class, (1) VESTA Admin Training class, and (1) Cutover Coaching class. Per PSAP request, this quote also includes additional:
    - (0) VESTA Admin Training classes
    - (1) VESTA Agent Training classes
12. Per discussion with AZDOA, removed "additional" FXS gateways.
13. This quote includes FIRSTNET as a 3rd network connection.
14. This quote includes (0) additional postion at the PSAP request for a total of (2) positions.
15. Citizen Input/Smart Transcription service requires internet service.
16. This quote includes (1) network printer.
17. Includes (2) bundled FXO's Gateways and (0) additional FXO's.
18. Includes (0) additional T1.
19. This quote inlcudes (0) 55' Wallboard monitor

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AT&T, AZDOA, and PSAP except under written consent.

Douglas A. Ducey
Governor

Andy Tobin
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

STATE PROCUREMENT OFFICE
100 NORTH FIFTEENTH AVENUE • SUITE 402
PHOENIX, ARIZONA 85007
(602) 542-5511

June 18, 2021

Sent via email: m9998@att.com

AT&T Corp.
Attn: Mark Rivas
240 N Meridian St.
Indianapolis, IN 46204

Re: BPM003444 – Award Letter

Thank you for submitting an offer in response to Request for Proposal, Solicitation No. BPM003444. I am pleased to inform you that your company's offering has been selected for award.

Your contract number is **CTR055782** and shall begin on June 21, 2021.

All offers received were evaluated in accordance with the evaluation criteria set forth in the solicitation document. The procurement file for this solicitation, including evaluation documents and resultant contracts, will be available for public viewing within three days of award via the State's e-Procurement system, Arizona Procurement Portal (APP).

In accordance with Special Terms and Conditions of the contract and prior to beginning any work under the contract, your company is required to submit the following documents.

- Section 2-C, 6.2 Insurance Requirements: Certificate of Insurance to the State Procurement Office. The certificate of insurance shall indicate that your company is in compliance with all insurance requirements contained in the contract. Please submit your certificate of insurance to Michael Hillebrand at Michael.Hillebrand@azdoa.gov,prior to beginning services under the contract.

If you have any questions regarding your company's contract, please contact me at Michael.Hillebrand@azdoa.gov, or 602.542.4229.

Thank you for your response and for your continued interest in doing business with the State of Arizona

Sincerely,

Michael Hillebrand

Michael Hillebrand
Statewide Procurement Manager
ADOA-State Procurement Office- State of Arizona

Arizona Department of Administration
State Procurement Office
100 N 15th Ave., Suite 402
Phoenix, AZ 85007

Cover Sheet

Contract No.: CTR055782

Supplier Name: AT&T Corp.

Solicitation No.: BPM003444

Statewide Procurement Manager:

Michael Hillebrand
Statewide Procurement Manager
State Procurement Office
Arizona Department of Administration
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007
Michael.Hillebrand@azdoa.gov
Office: 602-542-4229

Contents:

- Executed Offer and Acceptance Form
- Scope, Pricing and Terms and Conditions
- Conformance Statements

Attachment 1

Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide *NG911 Call-Handling Equipment* in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	**1.** **April 26, 2021** (Date)	(initial)						
Revised Offers:	**2.** **May 28, 2021** (date #1)	**x** (initial)	**3.** **x** (date #2)	**x** (initial)	**4.** **x** (date #3)	**x** (initial)		
	5. **x** (date #4)	**x** (initial)	**6.** **x** (date #5)	**x** (initial)	**7.** **x** (date #6)	**x** (initial)		
Best and Final Offer:	**8.** **June 11, 2021** (Date)	(initial)						

AT&T Corp. (Offeror company name)	(Signature of person authorized to sign Offer)
1 AT&T Way (Address)	Brian Troup, VP - SLED (Printed name and title)
Bedminster, NJ 07921 (City | State | ZIP)	Marco Rivas, Strategic Account Lead (Contact name and title)
13-4924710 (Federal tax identifier (EIN or SSN))	mr9998@att.com (Contact Email Address) 602-625-0791 (Contact phone number)

CERTIFICATION: By signature in the above, Offeror certifies that it:

1. will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41−1461 through 1465;
2. has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
3. complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
4. is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by the latest date and number at the top of this form (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: CTR055782 **The effective date of the Contract is:** 06/21/2021 (Date) **Contract awarded** 06/18/2021 (Date)

Michael Hillebrand (Procurement Officer Signature)	Michael Hillebrand (Procurement Officer Printed Name)

Part 2: Scope, Pricing and Terms and Conditions

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Section 2-A: Scope of Work

1.0 Introduction

The Arizona Department of Administration (ADOA) Arizona Strategic Enterprise Technology (ASET) Office on behalf of the State of Arizona (hereinafter referred to as the "State") is responsible for administering the State 911 Program (911 Program) and is the statewide authority responsible for funding, implementing, and coordinating 911 services in the state.

To assist ASET in administering and maintaining a comprehensive and cost effective 911 Program, the State is seeking proposals from qualified organizations to establish statewide contracting vehicles to allow PSAPs across the state to procure NENA i3-compliant call-handling equipment (CHE).

2.0 Purpose and Background

The purpose of this solicitation is to select multiple NENA i3-compliant call-handling equipment (CHE) solutions allowing Arizona PSAPs the ability to procure from a statewide contract. The Contractor will work with ASET's 911 Program to implement CHE solutions to ensure continuity of the State's 911 service levels.

2.1 Key Solution Elements

The following subsection summarize the key elements of the solution being sought by the State.

2.1.1 Call-Handling Equipment (on-premise) and as a Service

The 911 Program seeks to establish a statewide contracting vehicle to allow PSAPs across Arizona to procure NENA i3-compliant CHE. The 911 Program intends to select a small number of CHE vendors as procurable options to allow PSAPs to select a CHE solution with capabilities that best meet a PSAP's specific operational needs.

The Contractor shall be responsible for designing, documenting, installing, securing, operating), maintaining, monitoring, and evolving (in alignment with ongoing industry standards development) all call-handling design, architecture, and capabilities throughout the duration of the contract. End-user training shall be provided (as appropriate). Further, the Contractor(s) shall be responsible for developing PSAP-specific configurations (including speed dials, screen layouts, access and permissions schemes, and combinations of features and functionality) for each and, as requested, by each PSAP that makes a call-handling procurement under this contract.

Keeping the options to a small number is intended to minimize the risk of interoperability issues between CHE solutions and the ESInet/NGCS solution covered under a separate procurement. Additionally, due to the logistical challenges of providing centralized call handling to every PSAP across Arizona, ASET is seeking proposals from Offerors offering CHaaS, sometimes referred to as hosted or cloud-based, as well as the more traditional on-premise deployment model of call handling. To simplify the procurement process and minimize the number of CHE options to be supported across the state, ***ASET requires any Offeror providing a proposal in response to this RFP to support the deployment of their solution as both CHaaS as well as customer premise CHE***. Call handling solutions that

support only one or the other deployment model will not be considered. To be clear, proposals that include one CHE solution as a service and a different CHE solution for customer premise deployment will not be considered.

Technical Requirements for call handling may be found in Section 3-A, subsection 3.2, of Part 3 of this solicitation package.

2.1.2 Interoperability

To ensure interoperability among all components of the Arizona statewide ESInet/NGCS, existing MR911 ESInet, existing CHE solutions (until current contracts expire), and the i3 CHE solutions selected as part of this procurement, all Offerors must commit to, and document (prior to completion of contract negotiation), interoperability with all other awardees' solutions (ESInet/NGCS or CHE). If, as required, all solutions are truly NENA i3-compliant, this should not impose undue burden on the Contractor. Documentation of interoperability may take the form of any of the following (listed in order of probative value, from highest to lowest):

- References from joint customers where solutions from multiple Offerors have been deployed and made operational for a minimum of six months.
- Documentation of interoperability efforts undertaken within a non-production (i.e., laboratory) environment with the participation and support of all organizations represented in the combined solution.
- Documentation of interoperability efforts undertaken within a non-production (i.e., laboratory) environment and by only one solution provider as a proof-of-concept exercise.

2.1.3 Bundled Solutions

ASET recognizes that some Offerors may offer both ESInet/NGCS (BPM 003445 Emergency Services Internet Protocol Network (ESInet) and Next Generation Core Services (NGCS)) as well as CHE in response to this RFP. Further, Offerors offering proposals in both areas may be able to provide some cost savings or other advantages by "bundling" their solutions together. While the 911 Program is very interested in the advantages of these bundled proposals, to conduct the necessary pricing analysis between all proposals from all Offerors (and in the event an Offeror offering a bundled solution is only awarded a contract for ESInet/NGCS or CHE, but not both), ASET requires that any Offeror proposing a bundled solution must ALSO provide pricing for the separate, "unbundled" (i.e., à la carte) procurement of the proposed ESInet/NGCS and CHE solutions.

2.2 Current Environment

Arizona has a population of 7.37 million residents, with most of the population density along the interstate (I) 10 and I-17 corridors. Maricopa County, home of the state's capital, the city of Phoenix, contains 60% of the population. Tucson, located in Pima County, is the second largest city with almost 1 million residents. Arizona is a popular tourist destination for snowbirds and outdoor enthusiasts, with another 43.9 million visiting the state each year. The nation's fourteenth largest state population continues to grow by 1.51% each year. Arizona also has a large rural area that is diverse in topography and population. This, along with a large tourist population visiting both remote and densely populated areas of the state, presents an ongoing challenge for existing 911 systems in operation across the state.

The Arizona PSAP community is comprised of city, county, state, tribal, federal, and private PSAPs. Currently 80 PSAPs are funded by the 911 Program. There are 21 federally recognized tribes in the state and each acts as an independent sovereign nation. The availability of 911 services in tribal areas varies from some tribes having 911 capabilities similar to urban areas to non-existent in more remote areas. While parts of the state are served by first generation ESInet and NGCS solutions, there are still parts of the state served by enhanced and basic 911 services. It is of primary importance to the 911 Program that anyone calling 911 from any part of the state, and from any device, has reliable and equal access to emergency communications services.

2.3 Geographic Information Systems

The State and PSAPs have expended a considerable effort in developing the geographic information system (GIS) datasets necessary for the implementation of geospatial routing. While public safety GIS and GIS-supporting programs currently exist in Arizona at the local, regional, and state levels, these programs vary widely in maturity, capability, and focus. Existing geospatial data, in most jurisdictions, is not NG911-ready.

There is active engagement by two important statewide organizations. In 2009, the Arizona Geographic Information Council (AGIC) was established in legislation as Arizona's primary forum and oversight group for geographic information and geographic information technology (IT) issues and coordination efforts.[1] This body of decision-makers is, among other things, tasked with the facilitation of coordination between GIS programs in Arizona. This responsibility is key to the success of the NG911 Public Safety GIS program, as a large percentage of the goals for supporting NG911 reach far beyond the 911 Program and require statewide effort at all levels of government.

The AZGeo Clearinghouse (AZGeo) is an initiative of AGIC. AZGeo is designed to provide GIS users with links to Internet map services, Federal Geographic Data Committee (FGDC)-compliant metadata, and geospatial data downloads. AZGeo is maintained and hosted by the Arizona State Land Department. Data on AZGeo includes GIS layers for administrative boundaries, demographics, environmental factors, hydrology, imagery, indices, mining, natural features, transportation, and more.[2] AZGeo already has established itself as the de facto standard for GIS data sharing in Arizona.

2.4 Organization

The Arizona 911 community mostly is organized by county, with a few exceptions. Each county contains multiple PSAPs organized into a 911 system. There are 18 911 systems in the state, with a total of 80 PSAPs. Although the migration to NG911 is occurring by 911 system, the State plays a critical role in developing the implementation path and the final NG911 architecture for Arizona.

There are 44 PSAPs connected to the CenturyLink CHaaS and ESInet/NGCS and 3 PSAPs connected to the CenturyLink NGCS that are not part of the CHaaS solution. There are 24 PSAPs connected to the MR911 NG911 system. There are 9 PSAPs connected to Frontier's legacy 911 selective router.

2.5 Text-to-911

All PSAPs have deployed text-to-911. There is a combination of "over the top" as well as integrated solutions. The 911 Program's goal is to provide an integrated solution to all PSAPs through this procurement.

[1] https://gis.azgeo.az.gov/agic/about-agic
[2] https://azgeo.az.gov/azgeo/about-azgeo

2.6 Management Information Systems

The 911 Program is in the process of implementing RapidDeploy's Eclipse Analytics for use statewide. This tool provides a statewide dashboard that gives visibility regarding the status of PSAPs across the state and supplements individual management information system (MIS) solutions used by the PSAPs.

2.7 Goals of the Project

The primary goal of the 911 Program is to eliminate disparate 911 service levels by standardizing the delivery of NG911 capabilities to all geographic areas within the state, including tribal lands. The secondary goal is interoperability among the state's PSAPs and neighboring PSAPs in other states that support Arizona citizens, as well as Mexico.

3.0 Scope of Work

3.1 Industry Standards

ASET seeks standards-based services and solutions that comply with nationally accepted standards and requirements applicable to IP network architecture, cyber and data security, and interface functionality, in general, as well as public safety communications and NG911, specifically. All aspects of the Contractor's proposed solution and service design, deployment, operation, and security should comply with the standards, requirements, and recommendations identified in the following table of documents. In addition, solutions and services should align, generally, with standards and recommendations of the following organizations, to the extent that such standards and recommendations are applicable to the Offeror's proposed solution or services.

- Alliance for Telecommunications Industry Solutions (ATIS)
- Association of Public-Safety Communications Officials-International (APCO)
- Central Station Alarm Association (CSAA)
- Department of Justice (DOJ)
- Internet Engineering Task Force (IETF)
- National Emergency Number Association (NENA)
- National Institute of Standards and Technology (NIST)
- North American Electric Reliability Corporation (NERC)
- Telecommunications Industry Association (TIA)

Further, Offeror's solutions and services should comply with any additional standards, requirements, statutes, and policies as identified in specific sections throughout this document. The State received consultation from a third party in developing the Scope of Work for this solicitation. Please review the specifications and requirements to inform the State prior to the Closing Date of any concerns or issues related to the competitiveness of the requirements and their currency in terms of reflecting the developments of the industry standards that the state wants to incorporate into its next generation solution.

Table 1: Applicable Foundational Standards

SDO	Standard ID	Standard Title	Standard Description	Latest Revision/ Release Date[3]
Department of Justice (DOJ)	CJISD-ITS-DOC-08140-5.8	Criminal Justice Information Services (CJIS) Security Policy	Provides information security requirements, guidelines, and agreements reflecting the will of law enforcement and criminal justice agencies for protecting the sources, transmission, storage, and generation of criminal justice information	Version 5.8 June 1, 2019
IETF	RFC 3261	SIP: Session Initiation Protocol (and its updates RFC 3265, RFC 3853, RFC 4320, RFC 4916, RFC 5393, RFC 5621, RFC 5626, RFC 5630, RFC 5922, RFC 5954, RFC 6026, RFC 6141, RFC 6665, RFC 6878, RFC 7462, RFC 7463, RFC 8217, RFC 8591, and RFC 8760)	Describes SIP, an application-layer control (signaling) protocol for creating, modifying, and terminating sessions (including Internet telephone calls, multimedia distribution, and multimedia conferences) with one or more participants	Version 1 July 7, 2002 (RFC 3261) through March, 2020
IETF	RFC 3986	Uniform Resource Identifier (URI): Generic Syntax (and its updates	Defines the generic URI syntax and a process for resolving URI references, along	Version 1 January 2005 (RFC 3986) through July 2014

[3] *For any standards, if a newer version is available at the time of publication of this RFP, compliance will be judged relative to the latest version. The exception to this being NENA/APCO-INF-005.1-2014 for which compliance will be judged relative to NENA's updated Emergency Incident Data Object STA document*

SDO	Standard ID	Standard Title	Standard Description	Latest Revision/ Release Date[3]
		RFC 6874 and RFC 7320)	with guidelines and security considerations for the use of URIs on the Internet	
NENA/ APCO	REQ-001.1.2-2018	Next Generation 9-1-1 PSAP Requirements	Provides requirements for functions and interfaces between an i3 PSAP and NGCS, and among functional elements associated with an i3 PSAP	Version 1.1.2 June 10, 2018
NENA/ APCO	INF-005	Emergency Incident Data Document (EIDD) Information Document	Provides a recommended list of data components, their relationships to each other, the data elements contained within each data component, and the registries that control the available values for appropriate data elements. Initiates the process to create a National Information Exchange Model (NIEM)	January 8, 2014 Scheduled to be replaced by an Emergency Information Data Object (EIDO) standards document
NENA	STA-015.10-2018	Standard Data Formats for 9-1-1 Data Exchange & GIS Mapping	Establishes standard formats for Automatic Location Identification (ALI) data exchange	Version 10 August 12, 2018

SDO	Standard ID	Standard Title	Standard Description	Latest Revision/ Release Date[3]
			between service providers and database management system (DBMS) providers, a GIS data model, a data dictionary, and formats for data exchange between the ALI database and PSAP controller equipment	
NENA	STA-008.2-2014	Registry System Standard	Describes how registries (lists of values used in NG911 functional element standards) are created and maintained	Version 2 October 6, 2014
NENA	STA-010.2-2016	Detailed Functional and Interface Specifications for the NENA i3 Solution	Builds upon prior NENA publications including i3 requirements and architecture documents and provides additional detail on functional standards	Version 2 September 10, 2016
NENA	INF-016.2-2018	Emergency Services IP Network Design (ESIND) for NG9-1-1	Provides information that will assist in developing the requirements for and/or designing an i3-compliant ESInet	Version 1 April 5, 2018
NENA	08-751	Technical Requirements Document	Provides requirements for ESInet architecture	Version 1 September 28, 2006

SDO	Standard ID	Standard Title	Standard Description	Latest Revision/ Release Date[3]
			and security, among other i3 PSAP functions, and establishes a foundation for future i3 standards development	
NENA	75-001	Security for Next Generation 9-1-1 (NG-SEC)	Establishes the minimal guidelines and requirements for levels of security applicable to NG911 entities	Version 1 February 6, 2010
NENA	75-502	Next Generation 9-1-1 Security (NG-SEC) Audit Checklist	Provides the educated user a method to document an NG-SEC Audit	Version 1 December 14, 2011
NENA	INF-015.1-2016	NG9-1-1 Security Information Document	Provides mechanisms and best practices for cybersecurity for i3 systems	Version 1 December 8, 2016
NIST	FIPS 140-3	Security Requirements for Cryptographic Modules	Specifies security requirements that will be satisfied by a cryptographic module utilized with a security system protecting sensitive but unclassified information	Version 2 March 22, 2019
NIST	Cybersecurity Framework	Framework for Improving Critical Infrastructure Cybersecurity	Provides standards, guidelines, and best practices that promote the	Version 1.1 April 16, 2018

SDO	Standard ID	Standard Title	Standard Description	Latest Revision/ Release Date[3]
			protection of critical infrastructure	
TIA	TIA-942-A	Telecommunications Infrastructure Standard for Data Centers	Specifies the minimum requirements for telecommunications infrastructure of data centers and computer rooms, including single-tenant enterprise data centers and multi-tenant Internet-hosting data centers	Revision A March 2014

3.2 ESInet

3.2.1 Architecture

Figure 1 below depicts the demarcation points between the segments of the Arizona ESInet, NGCS, and call handling equipment. For drawing clarity, redundant components and facilities are not shown **but redundancy is required.** This solicitation covers the call handling portion and ESInet services that may be required to implement the Offeror's solution, either the on-premise or the CHaaS implementation.

Arizona ESInet Demarcations

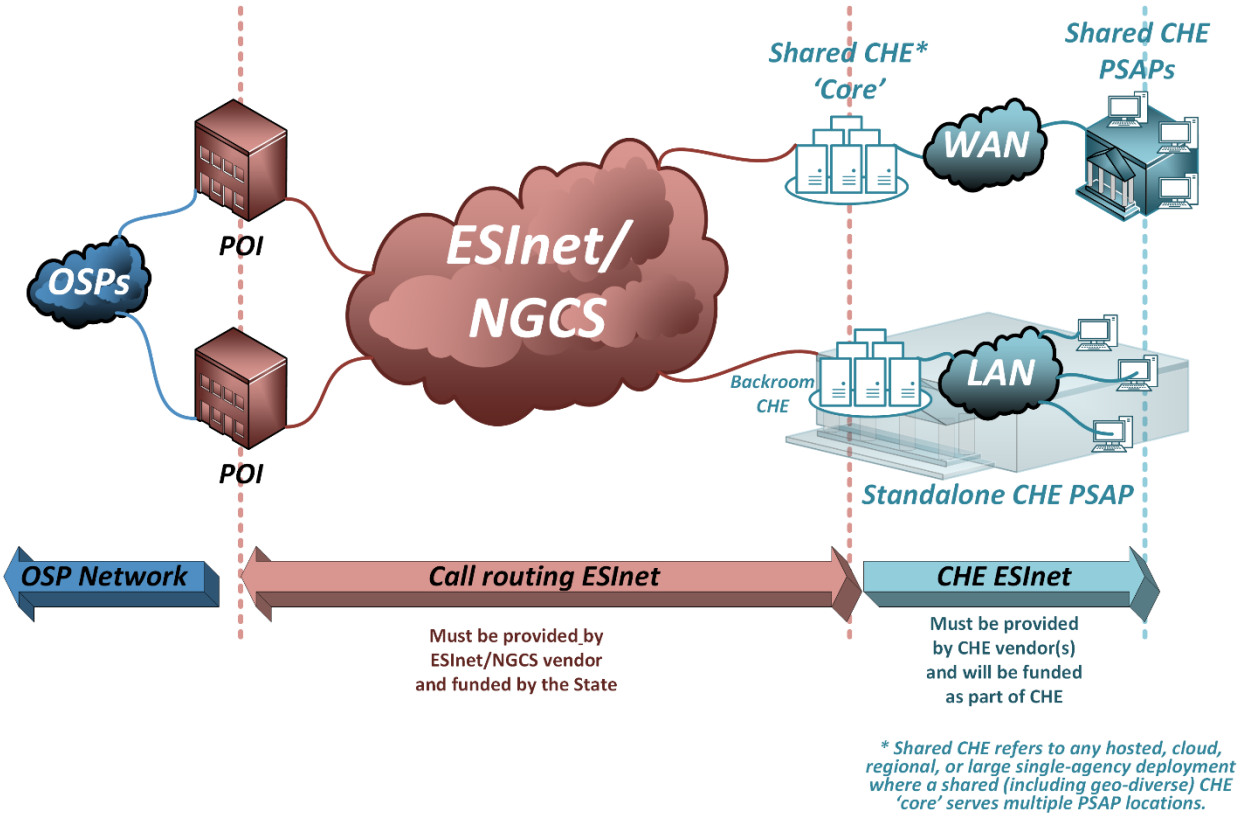

Figure 1 - NG911 Demarcation Points

Offeror's ESInet solution should comply with the following:
Must be aligned with NENA "*Detailed Functional and Interface Specifications for the NENA i3 Solution*" STA-010.2-2016 (or its successor document, when ratified).
Have diverse entrance facilities for aggregation sites (if different than core sites), core sites, and hosted call-handling facilities.
Primary (of at least two) connection into each facility should be terrestrial (copper or optical circuit); secondary connection(s) may be wireless (e.g., Long-Term Evolution (LTE), microwave, etc.).
Should offer optional network connectivity options to support call and data delivery to existing emergency communications district (ECD) mobile command and control assets.
Use open standards.

Offeror's ESInet solution should comply with the following:
Support and enforce quality of service (QoS) marking using Differentiated Service Code Point (DSCP).
Should have a network traffic convergence of less than 54 milliseconds (ms).
Should maintain the Mean Opinion Score (MOS) of 4.0.
Is scalable to support growth by 50% without replacement of any critical hardware component.
Failure of any single instance of a hardware or software element, or physical connection, should not impact overall solution performance.
All network-connected elements should support at least two redundant network interfaces with automatic failover between them.
All powered devices should include a minimum of two redundant power supplies (each should be able to power the device alone) that would be connected to separate circuits OR be connected to a power-transfer device that allows a single power supply to be connected to two isolated power sources (i.e., circuits) with automatic, uninterrupted failover, in the event the primary circuit fails.
Meet the performance requirements of Appendix C, *IP Network Measurement and Reporting Requirements*.

3.2.2 Security

Offeror should:
Describe how their security in-depth approach embodies the best practices outlined in the latest version of NENA's *Security for Next-Generation 9-1-1 Standard (NG-SEC)* standard and whether security is treated as an integral function of each solution element from the initial design stage or if security is treated holistically as a separate overarching functional element of the solution.
Include a security plan (physical, applications, and network).
Utilize encryption in all communications across the ESInet
Ensure that all components and/or functional elements providing NG911 services, under a contract from this solicitation, carry credentials traceable to the national PSAP Credentialing Agency (PCA).
Have a credentialing plan/process for external entities with staff requiring access to ESInet elements or NGCS services.
Perform proactive analysis of the network for vulnerabilities including independent security audits of solution.
Possess a defined continuity of operations (COOP) plan as well as a disaster recovery (DR) plan and make those plans available for review at ASET's request.
Provide access reports from facilities (physical access) down to the individual device level (physical or virtual access), upon request, when a service-impacting issue has occurred.

Offeror should:
Require multifactor authentication for any access to externally accessible portals, user interfaces (UIs), etc. (Policy Routing Function [PRF] portal, reporting portal, system dashboards, etc.).
Describe security software update policy, frequency, and procedures.
Describe plan/approach for adopting evolving security best practices.
Describe method and approach for complying with the requirements outlined in *Appendix E – State of Arizona IT Security Requirements*.
Complete, and submit for approval, the Arizona Baseline Infrastructure Security Controls assessment spreadsheet, as described in *Appendix E – State of Arizona IT Security Requirements*. For this procurement, Offerors will need to comply with the Moderate requirements, i.e., all requirements designated as Required in column labeled "MODERATE [Control and Control Enhancement]" (column F) of the spreadsheet.

3.2.3 Documentation

Offeror should provide the following documentation for their proposed ESInet, NGCS, or both, as applicable:
Proposed network design (transitional and end state).
As-built documentation depicting circuit path and equipment diversity within 30 days of system acceptance.
Network interface specifications for interoperating with CHE.
As-built solution design documentation to include configured parameters and policy-routing flow-downs (planned design and actual implemented design).

3.2.4 Monitoring and Alarming

Offeror should provide the following monitoring and alarming:
Physical access monitoring and reporting for all ESInet and CHE facilities.
Automated network node monitoring and alarming in real- or near-real-time.
Event logging and reporting in real- or near-real-time.
Ability to replicate select alerts to a third-party monitoring/reporting system.
User-definable notification levels and recipients with text and email delivery options.
Have an executive dashboard with (near) real-time updates of tickets and network status.

3.2.5 NOC/SOC

Offeror should provide the following functions:
24 x 7 x 365 staffed NOC/SOC with hot (preferred) or warm backup.
Ability for users to submit, track, and modify tickets by phone, email, and direct IT service management (ITSM) user access for incidents, problems, and changes.
Perform outward notifications and updates of customer tickets through phone, email, and text.
Fully documented escalation procedures with contact information for all primary and secondary responsible personnel at all levels of escalation.
Reason for outage (RFO) reports and regulatory compliance according to Federal Communications Commission (FCC) standards.
Preliminary RFO reports are due to ASET within five business days of initial report of the issue; final root-cause analysis within 30 calendar days of root cause determination.
Media contact for any outage or service failure.
Service management contact for any outage or service failure.
Documented and maintained COOP plan.
Access to technical and executive staff for escalations.
NOC/SOC staff trained or experienced with 911 issues with regular refresher/update training plan.
Ability to access and troubleshoot, diagnose, and repair network remotely.
Ability and commitment to support the troubleshooting of all service affecting issues, even when it is determined that the root cause of the issue is outside the scope of the Contractor's solution or service. (e.g., provide call traces and log analysis to assist in troubleshooting a third-party CHE location display issue).

3.3 Call Handling Requirements

ASET desires to establish a contract vehicle to allow PSAPs within the state to procure a variety of NENA i3-compliant CHE solutions. The intent is to negotiate contracts for a handful of Offerors' solutions, in order to allow PSAPs to select a call-handling solution that best fits their unique operational needs.

3.3.1 Adopted Standards

Table 2: Adopted Standards

SDO	Document Number	Document Title	Standard Description	Latest Revision/ Release Date
APCO/ NENA	1.102.2-2010	Public Safety Answering Point (PSAP) Service Capability Criteria Rating Scale	APCO and NENA jointly have developed an assessment tool to evaluate current capabilities of the PSAP against models representing the best level of preparedness, survivability, and sustainability amidst a wide range of natural and manmade events	Version 2 July 28, 2010
NENA	75-001	NENA Security for Next Generation 9-1-1 Standard (NG-SEC)	The purpose of this document is to establish the minimum guidelines and requirements for the protection of NG9-1-1 assets or elements within a changing business environment	Version 1 February 6, 2010
NENA	08-751	NENA i3 Technical Requirements Document	Intended to specify the requirements the i3 (Long Term Definition) Standard should meet	Issue 1 September 28, 2006
NENA	STA-010.2-2016	NENA Detailed Functional and Interface Standards for the NENA i3 Solution	This Standard Document (STA) is published by NENA as an information source for the designers, manufacturers, administrators and operators of systems to be utilized for the purpose of processing emergency calls	August 16, 2016
APCO/ NENA	54-750	Human Machine Interface & PSAP Display Requirements	NENA and APCO have jointly developed this document for the purpose of prescribing requirements for the human machine interface (HMI) display for the NG9-1-1 system	Version 1 October 20, 2010

3.3.2 Common Call-Handling Requirements

3.3.2.1 Architecture

Offeror should support the following:
To simplify the procurement process and minimize the number of CHE options to be supported across the state, ASET requires any Offeror providing a proposal in response to the CHE portion of this RFP to support the deployment of their solution as both CHaaS as well as customer premise CHE. Call handling solutions that support only one or the other deployment model will not be considered. To be clear, proposals that include one CHE solution as a service and a different CHE solution for customer premise deployment will not be considered.

3.3.2.2 Industry Standards Evolution

Offeror should support the following:
As industry standards evolve, Offeror's solution should be upgraded to maintain conformance with the current version of established industry standards. Offeror's solution should support new call-handling and security industry standards within 18 months of ratification of applicable industry standards. Conformance requirements apply also to the supporting standards referenced within each standard.
As solution updates are made to maintain conformance, the solution should not abandon services, features, or functionality in place at the time of the solution upgrade. Offeror must divulge and justify any performance or feature changes prior to the upgrade and report them to ASET and the affected PSAP(s) for approval.

3.3.2.3 I3 Conformance

Offeror's solution should be an i3-conformant call-handling system.

Offeror should support the following:
Offeror's solution should conform to the latest published/ratified version of NENA-STA-010.2-2016.
Offeror's solution should interface with any NENA i3-conformant NGCS/ESInet.
Offeror should provide the number of their operational call-handling installations that utilize Presence Information Data Format Location Object (PIDF-LO), HTTP-enabled location delivery (HELD), Location-to-Service Translation (LoST), ADR queries, and other i3 protocols.

3.3.2.4 Call Handling Technical Support

Offeror should support the following:
Offeror should provide a 24 x 7 NOC/SOC for reporting and escalating software and hardware issues beyond Tier 2.

Offeror should support the following:
Offeror should provide a redundant/secondary/backup NOC/SOC or equivalent support capabilities and capacity in the event the primary center is offline or otherwise unusable.
Offeror should provide a NOC/SOC COOP that provides for situations when NOC/SOC staff are unable to work onsite (such as the COVID-19 pandemic environment).

3.3.2.5 Solution Validation

Offeror should support:
At the discretion of each PSAP procuring call handling under this contract, independent third-party validation of all mandatory solution requirements and feature functionality prior to cutover of the site.
Provide transparency and access to all SIP messaging, CDRs, KPIs (e.g., MOS, delay, jitter, and packet loss at ingress and egress of delivering network), call logs, and any other data determined to be necessary in order to verify compliance with contractual obligations or to troubleshoot issues.
Documentation of completed results from ATPs.

3.3.2.6 Multi-tenant Capability

Offeror's solution should support partitioning of tenants' (i.e., agencies') call-handling resources:
All ASET PSAPs should be able to create their own unique set of configurations (e.g., agent identifications [IDs, roles, permissions, and groups], screen layouts, speed-dial catalogs, MIS reports, system status screen layouts, etc.) that are not accessible to any other PSAP configured in the solution.
Authorized ASET administrative personnel should have full visibility into the enterprise, including configuration control and reporting.

3.3.2.7 Integrated Text-to-911

Offeror's solution should support an integrated SMS-based text-to-911 solution via SIP/MSRP.

Offeror should:
Explain how text calls are received, queued, answered, and tracked in the system.
Explain disposition of attached multimedia and how text calls are handled by the MIS.
Explain how text calls are transferred and shared, as well as any limitations.
Provide examples of the applicable UIs (e.g., screenshots).
Provide the ability to text outbound from the 911 system.

Offeror should:
Be able to accept SMS delivery via the existing ESInet connection (i.e., not require a separate connection for SMS delivery).
Describe SMS foreign language translation capability.

3.3.2.8 Real-Time Text

Offeror's solution should support real-time text:
Offeror should describe its current implementation, if applicable, and any current beta or field trials.
If not currently developed, Offeror should provide details of when this capability will be included in the proposed solution as a no-charge upgrade/deliverable.

3.3.2.9 User Profiles

Offeror should support the following user profile characteristics:
Provide user profile settings, which are retained between logins, during upgrades. and between sessions (i.e., logoff and return next day).
Profiles should be stored on the network and be available from any workstation on the same call-handling system.
Solution should be capable of establishing skills-based profiles.
Access to call-handling assets (e.g., trunks, lines, queues, speed dials, configurations, screen layouts, etc.) may be controlled by a user's profile.

3.3.2.10 Redundancy, Reliability, Availability

Offeror's proposed solution should satisfy the following redundancy, availability, and diversity requirements:
Automatically (i.e., without manual intervention) transfer or failover core processing functionality upon detection of a problem that impacts the system's ability to meet the 99.999% SLA.
During such an event, call-handling capacity and performance should not be degraded.
It should be possible to manually switch core processing functionality back to its normal operating state, as well as to have the system automatically recover and resync once the problem is corrected.
Provide a detailed description of how the solution achieves 99.999% availability.
Core processing functionality may be distributed across two or more call-handling centers (CHCs) provided (at the tenant PSAP's discretion) by either the Offeror or the PSAP(s).

Offeror's proposed solution should satisfy the following redundancy, availability, and diversity requirements:
Each CHC should have sufficient configured capacity to support 125% of busy-hour 911 call volume and call-mapping functionality for all PSAPs served by that call-handling system.
Should support the use of laptops as fully functional call-handling workstations with virtual private network (VPN) capability to provide remote call taking via FirstNet or other broadband connectivity.
Describe solution's hot-seating capabilities (i.e., the ability for a telecommunicator from one PSAP or agency to login at a workstation at a different PSAP or agency, provided both PSAPs/agencies are co-tenants on the same system, and have their "home" assets [e.g., trunks, lines, queues, speed dial lists, screen layouts, map, etc.] available at the other PSAP).

3.3.2.11 Security

Offeror should support the following security requirements:
Proposal should comply with NENA 75-001.1, *Security for Next-Generation 9-1-1 Standard (NG-SEC)*. Offeror should detail how its solution addresses the requirements of the following sections of the standard:
1. Section 6 – General Security.
2. Section 7 – Safeguarding Information Access.
3. Section 9 – Network and Remote Access Security Guidelines.
Describe CHE security software update policy, frequency, and procedures (include frequency of antivirus updates).
Describe policy/approach to independent system security audits.
Describe method and approach for complying with the requirements outlined in *Appendix E – State of Arizona IT Security Requirements* in Part 2 of this solicitation package.
Complete, and submit for approval, the Arizona Baseline Infrastructure Security Controls assessment spreadsheet, as described in *Appendix E – State of Arizona IT Security Requirements* in Part 2 of this solicitation package. For this procurement, Offerors will need to comply with the Moderate requirements, i.e., all requirements designated as Required in column labeled "MODERATE [Control and Control Enhancement]" (column F) of the spreadsheet.

3.3.2.12 Long-term Availability

Offeror should commit to the following:
Six-month (minimum) advance written notification to ASET for any end-of-life (EOL) or end-of-support (EOS) component, with a plan for how the affected component(s) will be replaced without affecting service.

Offeror should commit to the following:
Proposed solution should be supported by the manufacturer(s) for a minimum of five years (plus any optional contract extensions) from the date of full system acceptance by Contracting Authority.

3.3.2.13 CAD Interoperability

Offeror should support the following:
Support for the CAD interface as described in NENA-STA-027.3-2018, *NENA E9-1-1 PSAP Equipment Standards ANS Candidate* (originally NENA 04-001), July 2, 2018.
Support for IP-based connections.
Support for the CAD systems listed in the supplementary PSAP information packet, to be provided to all registered Offerors.

3.3.2.14 LIS/LDB

Offeror should:
Support interface(s) with LIS and LDB as defined in NENA-STA-010.2-2016, *NENA Detailed Functional and Interface Standards for the NENA i3 Solution*, (or its successor document, once published).
Describe how the proposed solution will address any transition period, during which both legacy ALI services and i3-compliant LDB/LIS services may need to be accessed by Offeror's call-handling solution.

3.3.2.15 PSAP Hardware

Offeror should support the following:
All PSAP hardware (e.g., monitors, keyboards, mice, headsets, phones) must be new and covered by (extended) manufacturer warranty for no less than five years from the date the device is placed into operation.
Whenever supported by the device manufacturer, all servers, switches, routers, firewalls, and other devices within the solution should be configured with redundant power supplies and redundant network interfaces.
Offeror should work with interested PSAPs to interface/integrate CHaaS positions in their existing mobile command and control assets with wireless ESInet connectivity to the NGCS for call delivery.

3.3.2.16 Human-Machine Interface (HMI)

Offeror should support the following:
Offeror's solution should comply with NENA 54-750, *NENA/APCO Human Machine Interface & PSAP Display Requirements*, Version 1, October 20, 2010, and provide explanation of any areas of non-compliance with the standard.
If a call is default-routed or otherwise diverted to a destination other than the normally intended destination, the call-handling solution should recognize and present the originally intended destination and the reason why the call was diverted (ref. sections 3.3.CC of NENA 54-750).

3.3.2.17 Distinctive Ring Tones

Offeror's solution should support distinctive ring tones:
Offeror's solution should provide a ring tone for 911 calls that is distinctly different than the ring tones for administrative calls and text messages.
Offeror's solution should provide a ring tone for text messages that is distinctly different than the ring tones for administrative and 911 calls.
Offeror's solution should support user-selected, distinctive ring tones for each automatic call distribution (ACD) queue or call type.
Offeror's solution should provide distinctive ring tones to be customized by agent role or login.

3.3.2.18 Conference Controller

Offeror should support the following conferencing capabilities:
Conference controller should enable the telecommunicator to add an outside caller or inside caller to an in-progress "live" call while remaining on the line, with no limitation as to what type of call the telecommunicator is handling.
Conference controller should automatically control the audio levels (AGC) of the calling parties so that no degradation of voice quality occurs.
Original telecommunicator should be able to mute/unmute (i.e., disable/enable the microphone of) any party on the conference.
Original telecommunicator should be able to deafen/undeafen (i.e., disable/enable the earpiece/speaker of) any party on the conference without muting that party's audio (i.e., allow the telecommunicator to speak to others on the conference, without that party hearing, while still able to hear that party).
Original telecommunicator should be able to select and drop any party from the conference.

Offeror should support the following conferencing capabilities:
Original telecommunicator, or any of the conference parties, should be able to drop out of the conference without disconnecting the original caller.
Conferencing feature should support, at a minimum, any combination of up to six parties.

3.3.2.19 Call Monitoring

Offeror should support the following:
Offeror's solution should allow authorized PSAP personnel to listen quietly to another telecommunicator's live conversation.
Monitoring feature should be controlled by the authorized personnel's credentials.
Monitoring should include the option as to whether the telecommunicator being monitored is made aware (visually or audibly) when their call is being monitored.
Monitoring should not degrade the audio quality of the call.
Offeror should describe its options, or future plans for supporting a call-monitoring-like functionality for text-to-911 sessions.

3.3.2.20 Call Barge-In

Offeror should support the following:
Offeror's solution should allow authorized PSAP personnel to listen quietly and mute/unmute (barge-in) while listening to another telecommunicator's live conversation.
The feature should be activated by utilizing a mouse or an easily invoked keyboard command.
This feature should not degrade the audio quality of the call.
This feature should be configurable to provide a tone to announce the barge-in.
The telecommunicator or supervisor is then part of a three-way call with the caller and original telecommunicator.
Offeror should describe options or plans for supporting a barge-in-like capability for text-to-911 sessions.

3.3.2.21 Callback

Offeror should support the following callback capabilities:
Callback of any 911 "call" (i.e., wireline, wireless, telecommunications device for the deaf/teletypewriter [TDD/TTY], text, and VoIP callers) based on the calling party number.

Offeror should support the following callback capabilities:
Should utilize the calling party's number (CPN) of a 911 caller to invoke the callback process.
Should callback wireless or VoIP 911 calls utilizing the caller's telephone number, located within the PIDF-LO fields.
Should use the Caller ID (CID) information to allow a callback to an administrative caller.
Any required dialing prefix digit(s) insertion/deletion (e.g., adding +9 or removing the area code) should be automatic and not require manual input.
Callback function should require only a single mouse click.

3.3.2.22 Abandoned Calls

Offeror's solution should support the following regarding abandoned calls:
Provide a visual and audible indication for abandoned calls.
Display the number of abandoned calls from the same callback number.
Clear the abandoned call count display upon successful callback and answer of the telephone number.
Provide a configurable option allowing for an automatic response to an abandoned call.
Provide each individual agency with the ability to configure the automatic-callback option to be enabled or disabled by the agency.
Allow the system to automatically attempt to return a call and/or text message to an abandoned call, and to prompt the recipient of the call to take an action (e.g., press 1 to notify the agency that no assistance is needed; press 2 to be routed to 911).
Provide abandoned call reports as part of its MIS.

3.3.2.23 Repeat Callers

Offeror's solution should support the following features for managing repeat callers:
Make available a caller history feature that displays the date and time of up to ten previous calls from the same number and includes notes provided by the telecommunicator(s) who handled the previous calls.
Identify the repeat-call condition to the telecommunicator.
Allow agencies to specify that new calls from the same caller (within a configurable period of time) should be routed to the same telecommunicator who handled previous call(s), if that telecommunicator is available.
Describe capabilities for identifying and managing abusive repeat callers (e.g., NSI wireless phones, TDoS, location).

3.3.2.24 Real-time Queries

Offeror should support the following:
Telecommunicators should have the ability to query telephone numbers, in real time, with a date/time range to retrieve call information for all calls — 911 and non-911 — received from a telephone number.
Telecommunicators do not have to be on an active 911 call to retrieve this information.

3.3.2.25 Speed Dials

Offeror should support the following:
Separate and multiple speed-dial lists for each group: 1. System wide (enterprise) 2. PSAP/Agency (local operations); and 3. Personal (by role or login ID).
The system administrator should maintain the enterprise-wide speed-dial list.
The PSAP-wide speed-dial list is managed by the local system administrator at the PSAP.
Telecommunicators will maintain their own personal speed-dial lists.
Access to speed dials with a minimum of mouse click actions.
Hierarchical organization of speed dials (up to at least five levels deep), in which a list entry may refer to a single speed dial or another list.
Alphanumeric entries, e.g., 1-888-911-HELP.
Extra digits or codes necessary to automatically dial a number and complete a call based on-line type, (e.g., long distance access, personal identification numbers [PINs], and star-code transfers).
Telecommunicators should not need to take any action to immediately access speed-dial list changes.
Association of content (files, links, etc.) with a speed-dial entry to include images, video, floorplans, comments, etc. (Please describe if and how this content is searchable.)
Allow display of speed dials in either list form or graphical form (i.e., as a grid of clickable buttons, icons, graphics, and/or images).
When a speed dial or list is assigned to a button that appears in the telecommunicator UI, allow for the display (in a popup window) of a user-selectable set of fields when the mouse pointer hovers over the button.
Describe how additional information is entered and associated with an entry.
Describe search functionality (PSAP prefers search-as-you-type capability).
Describe options for uploading and using user-provided icons/graphics/images for speed-dial buttons.

Offeror should support the following:
Should support speed-dial entries/buttons that are dynamically populated with agencies (e.g., law enforcement, fire/rescue, EMS, poison control, animal control) and services (e.g., towing, language translation) based on the caller's location.
Should support a minimum of eight speed-dial entries per service area (analogous to a legacy emergency service zone [ESZ]).
Should support intelligent manipulation of the dialed digits, such as area code removal for 7-digit local dialing, adding '+1' for 11-digit dialing, etc.
Describe all methods of speed-dial import and export (e.g., comma-separated values [CSV], Structured Query Language [SQL], XML, etc.).

3.3.2.26 Automatic Call Distribution

Offeror's solution should support the following ACD requirements:
Permit trained and authorized PSAP and ASET staff to provision ACD-related queues, routing, and telecommunicator skill settings, as needed.
Support, at a minimum, the following ACD next-available-telecommunicator selection algorithms on a per-queue basis:
1. Longest idle.
2. Top down.
3. Round robin.
4. Ring all.
Ability to change role without having to log out and log back in.
Be able to display to a telecommunicator the number of calls in each queue.
Toggling between "ready" and "not ready." While ready, telecommunicators can receive calls presented through the ACD queues. Conversely, ACD calls are not presented to telecommunicators who are not ready.
The option to require a telecommunicator to select from an agency-defined list of reasons when changing their status to "not ready."
In a "longest idle" ACD environment, switching to "not ready" should not reset the timer used to determine "longest idle" status.
A configurable option of forced (automatic) answer of ACD calls, which connects 911 callers to the next available telecommunicator, without any action needed on the part of the telecommunicator. Optionally, forced answer can provide an audible alert to the telecommunicator prior to connecting the 911 caller to the telecommunicator.

Offeror's solution should support the following ACD requirements:
An optional, automatic, and configurable “wrap up” period following the end of a call. During this period, the telecommunicator is considered unavailable for ACD calls and may perform post-call tasks without interruption. Once the wrap up period expires, the telecommunicator is automatically made available for ACD calls.
Support the ability of each telecommunicator to record automatic greetings, in their own voice, for each queue or call type. This enables consistent call answering, as well as giving the telecommunicator a notification of the type of call they are about to handle.

3.3.2.27 Real-time Statistics

Offeror's solution should provide the following:
An option to each PSAP for one or more wall-mounted monitor/television displays for presenting real-time call information as configured by the PSAP.
Display information should include, at a minimum:
1. Name of queue or call type/category.
2. Number of calls in queue or call type/category.
3. Longest call-in queue or call type/category.
4. Number of telecommunicators logged in.
5. Number of telecommunicators available for calls.
6. Number of telecommunicators not ready.
Support configurable thresholds for color and audible alerts.

The following is just an example of the kind of display being requested:

	Calls			Agents		
	Waiting	Longest	Active	Logged In	Avail	Not Ready
9-1-1	2	0:22	8	9	0	1
Spanish	0	0:00	1	2	0	0
Admin	3	2:13	1	11	0	1

3.3.2.28 Call Mapping

In the event that the Offeror's call-handling solution does NOT include call location mapping as a no-charge feature included in the base version of their solution, Offeror is asked to provide separate pricing for a call location mapping solution that is fully integrated with the call-handling solution and which meets the following requirements.

Offeror's solution should support the following:
The HMI should display ***emergency event*** location and ***calling device*** location information on a map display.
Map display configuration (e.g., map scale, base map data, iconography, caller/event location display rules) should be determined by user's profile/role.
The HMI should provide the ability to display updated location (from CHE re-bids) on the map display in real time.
The HMI should provide the ability to accept or reject the update request results.
If previous calls/incidents are to be shown on the display, the HMI should provide the ability to configure how long previous calls/incidents will remain on the display before being automatically removed/hidden.
The HMI should provide the ability to draw and label, modify, and delete geometric shapes or points on the map display.
The HMI should provide the ability to make such dynamic features private (i.e., visible only to the creating agent), visible to specific groups (i.e., roles, agencies), or visible to all users.
Such dynamic features should be able to be captured and stored for easy reuse.

Offeror's solution should support the following:
The HMI should have the ability to “zoom” the map display.
Zoom parameters (e.g., default zoom level when call arrives; appearance of various features, information, iconography, and layers at different zoom levels) should be configurable based on user role.
Zoom history – it should be possible to return to the previous zoom level with a single click (up to ten steps back).
It should be possible to return to the default zoom level with a single click.
The HMI should provide the capability to pan the display.
Pan history – it should be possible to return to the previous pan location with a single click (up to ten steps back).
It should be possible to return to the current call location with a single click.
The HMI should provide the ability to set default GIS layers that are visible based on user login/role, and to manually select/unselect individual GIS layers for display.
The HMI should provide the ability to search for a location using either: a) geo-coordinates, b) civic addresses, or c) common place name.
The HMI should display location search results to the call-taker.
If multiple results are returned, each should include a confidence/match-score and clicking on a result should re-center the map on the selected location.
The HMI should provide the ability to retrieve location information (i.e., address and geo-coordinates) by clicking on a point on the map display.
The HMI should provide the ability to designate a location as a call/incident location by clicking on a point on the map or selecting it from the list of search results.
The HMI should provide the capability to display the emergency response agencies associated with a ***caller’s location*** on the map display.
The HMI should provide the ability to display the emergency response agencies associated with an ***emergency location*** on the map display.
The HMI should provide the ability to graphically display the accuracy/uncertainty associated with a given calculated position.
The HMI should support the ability to represent calls on the map with different icons based on class of service/type of call (e.g., wireline, wireless, VoIP, SMS).
The HMI should support the representation of additional location information for a call based on call type/class of service (e.g., wireless, SMS, VoIP).
The HMI should provide the ability to answer and manage calls directly from the map.

3.3.2.29 Training

Offeror's solution should support the following requirements:
Proposals should include options for both train-the-trainer and end-user models with different training content for telecommunicator staff versus supervisors/administrators (i.e., superusers).
Operational training on the call handling and mapping features and functionality will be provided to all telecommunicators and superusers.
Training for superusers should also include monitoring, reporting, system health. and performance (MIS).
Training for superusers should also include GIS/mapping administration.
Proposals should include options for PSAP-specific training at each PSAP and train-the-trainer instruction for regional training personnel.
Training scheduling should accommodate 24 x 7 shifts.
All training materials should be available in digital form.
ASET reserves the right to record all training sessions and make available to staff online for refresher and new-agent training at no additional charge.
Training services should include an onsite trainer/coach in each PSAP for a minimum of 4 hours for each different shift immediately following cutover (on-the-job training/coaching).
Provide a summary/syllabus and duration of each training class, so that PSAPs can coordinate personnel schedules.
Training materials should include quick-reference guides for call-takers (CHE and mapping).
Training for call-takers should take place no more than one week prior to go-live (retention issues).

3.3.2.30 MIS

Offeror should support the following:
Authorized personnel should be able to run reports specific to their PSAP, and other PSAPs should not have visibility into another PSAP's reports.
Authorized regional or agency personnel should be able to run reports on any PSAP within their jurisdiction.
Authorized ASET personnel should be able to run reports on any PSAP within the state.
Each PSAP will be provided with a business-grade color network printer for printing reports from the MIS.
Reports should support color charts and graphs.
Authorized personnel should have the ability to query the data to create and print reports in an ad hoc fashion.

Offeror should support the following:
Provide documentation on the following. For each report, include a description as well as an anonymized sample to show the report's layout: 1. All built-in reports included in the proposal. 2. All additional reports currently available for an additional fee. 3. Options available for custom report creation by the manufacturer. 4. Options for supplementary training for PSAP personnel on ad hoc report development.
Offeror's MIS documentation should include a data dictionary and explanations of data fields available for reporting.
After ad hoc reports have been developed, the Offeror's solution should have the ability to save the ad hoc report as a template and to optionally schedule the report for automatic execution.
Ability for reports to be scheduled for output to files, printers, or other network locations.

3.3.2.31 Instant Recall Recorder

Offeror should support the following:
Recording at workstations for both radio and telephony.
Playback of radio and 911 calls independently or together.
Support of the following single-click playback controls that enable the user to navigate to any portion of the recorded conversation(s): 1. Play. 2. Pause. 3. Stop. 4. Play forward/fast forward (without altering voice pitch). 5. Rewind. 6. Repeat. 7. Skip forward or back a configurable number of seconds.

3.3.2.32 Project Management and Progress Reports

Since no specific call-handling deployment projects will immediately result from the award of this contract, the following project management-related requirements will apply, generally, to any such deployment projects (CHE or CHaaS) undertaken under a contract.

Offeror should support the following:
Prior to contracting with any PSAP or agency for call handling, selected Offeror will provide a ***high-level*** project plan and timeline that shows the entire project calculated from the date of contract signature.
Examples of what should be included in the project plan, at a minimum:

Offeror should support the following:
1. Data gathering.
2. PSAP onsite testing.
3. Core component installation and testing.
4. PBX[4]/CHE/mapping and workstation installation.
5. Gateway/network interface testing at all PSAP locations.
6. Location format, update and discrepancy reporting mechanisms, and interface testing.
7. CAD, logging recorder, analog, digital and IP voice testing.
8. Comprehensive test and acceptance plan for all network connections verifying complete functionality with the CHE solution.
9. An overview of the approach and typical steps taken to ensure continuity of PSAP operations throughout the project.
Within 30 days of contract signing, the selected Offeror will provide a ***detailed*** project plan, timeline, and schedule, to the contracting PSAP/agency and ASET. This plan should include the specific approach and steps to be taken to ensure continuity of PSAP operations throughout the specific project.
Facilitate biweekly project calls followed by a written progress report, distributed within 24 hours of the call, that captures the minutes and action item updates from the prior biweekly project call.

3.3.2.33 Systems Integration

Offeror should support the following:
Coordinate and work with the appropriate vendors' technicians for the test and turn-up of CAD, recorder, mapping, radio, and local PSAP telephone system interfaces, as needed.
Coordinate and work with ASET's NGCS/ESInet vendor for system integration and testing.

3.3.2.34 Change Orders

Offeror should support the following:
Submission, in writing, of all change orders.
All change orders require approval by the funding entity (PSAP or ASET) prior to performing work, not only those for equipment or services not covered under the contract with PSAP.

[4] *Private branch exchange.*

Offeror should support the following:
Contracting PSAP(s)/agency(ies) and ASET will not accept change orders resulting in additional costs unless additional features are requested by the PSAP(s)/agency(ies).

3.3.2.35 Service Interruptions and Facility Damages

Offeror should support the following:
As the Offeror performs the installation and cutover of the equipment, the Offeror should assure the PSAP that there will be minimal interruption to the normal business operations of the local PSAP.
Prior to any PSAP visit, provide advance notice to, and obtain authorization from, the PSAP, which reserves the right to alter or suspend the intended schedule for any reason at its sole discretion.
Be responsible for the repair or restoration of any damages caused by the Offeror, its subcontractors, or delivery personnel to any PSAP or agency facilities through the receipt, delivery, installation, or test of the solution.

3.3.2.36 Storage, Staging, Delivery, and Inventory Control

Offeror should support the following:
Be accountable for the storage of materials until such time that the items are to be installed.
Neither ASET nor PSAP facilities may be used as a warehouse for uninstalled equipment.
Coordinate with PSAP for the shipping, staging, and testing of all equipment prior to installation.
Be responsible for ensuring that the equipment is fully staged, configured and tested prior to delivery to the PSAP.
Arrange for equipment to be delivered onsite on an as-needed basis, and the cost for delivery should be included in the Offeror's proposal.
Receipt, inventory, and movement of material are the responsibility of the Offeror.
Be responsible for the disposal of shipping material, as well as the daily removal of other day-to-day refuse.
Provide PSAP with a detailed inventory of all equipment installed on PSAP premises, whether purchased by the PSAP or provided by the Offeror as part of a CHaaS offering.
At a minimum, the inventory data should include where it is installed, manufacturer, part number, serial number, quantity, and model number.
Provide the inventory in hard- and soft-copy format using MS Excel.
Be responsible for all hardware, from its receipt prior to staging until it is accepted by PSAP personnel in writing.

Offeror should support the following:
Any hardware or equipment lost, misplaced, or damaged prior to acceptance will be replaced at the Offeror's sole expense.

3.3.2.37 Code Compliance, Grounding, and Transient Voltage Surge Suppression

Offeror should support the following:
Installation must comply with all applicable national, state, and local codes.
All metallic circuits (data or voice) should be equipped with both primary and secondary transient voltage surge suppression (TVSS) devices per industry standards and best practices for telecommunications equipment.
The secondary TVSS device should have an operational indicator in the form of a light or audible signal to alert maintenance personnel that the device has been exercised, failed, or the circuit is no longer protected.
Each PSAP where TVSS devices are installed should be provided an onsite spares kit to assist in emergency restoration.
TVSS equipment should comply with UL 497A, *Secondary Protectors for Communications Circuits.*

3.3.2.38 Pre-Cutover Acceptance Criteria

Prior to cutover, Offeror should provide the following:
Evidence of backup of all configuration files and databases for all customer-premise-installed equipment.
Confirmation and documentation of control, monitoring, and alarm solutions.
An inventory of all Offeror-provided, PSAP premise-installed equipment to include manufacturer, model, part number, quantity, serial number, and installed location.
ATPs and documentation reviewed and approved by the contracting PSAP(s).
If, during testing, PSAP staff believe that a solution test fails, they will provide the Offeror with a written description of what test failed and why. Offeror will work expeditiously to resolve the problem, providing an estimated time of resolution.
Final as-built drawings (preferably in editable Visio format) within 30 days of cutover.
As-built documentation should include all customer-premise-installed cabling, equipment, and configurations, bringing attention to unique or special deployment details.

3.3.2.39 Cutover Coordination

Offeror should support the following:

Coordinate cutover activities with all service providers and PSAP personnel.
A detailed cutover plan, along with coordination conference calls and supporting documentation, should be provided to all participating parties, at least 30 days before cutover begins.
Review the cutover plan with PSAP staff at least 14 days prior to cutover.
Provide trained and capable technical and functional solution support, and the project manager should be available and onsite the day of cutover.
Offer the option of in-person, onsite cutover support for end users to ease the transition to the new system. This should include at least four hours for each unique shift immediately following cutover.
State the length of time technical support staff will be onsite for each cutover.

3.3.2.40 Acceptance Testing

Fault categories for call handling acceptance testing will be the same as those defined for NGCS in the Error! Reference source not found. section.

3.3.2.41 PSAP Call-Handling Final Acceptance Testing

Offeror should support the following:
PSAP call-handling final acceptance testing is intended to validate that the Offeror's solution operates during day-to-day use in each live PSAP environment and as asserted in the RFP response. The testing period should be sufficient to demonstrate the solution's performance and reliability. The period should be 30 consecutive calendar days with zero Priority One and zero Priority Two faults.
Offeror should provide a baseline PSAP Call-Handling Final Acceptance Test Plan (including specific test cases, scenarios, and expected outcomes) to each PSAP at least 28 days in advance of the planned execution thereof and allow each PSAP a full two weeks to modify the test plan to meet their system acceptance criteria.
If a failure to comply occurs:
1. The impacted PSAP(s) will provide a written notification to the Offeror with their classification of the fault according to the four categories.
2. If Offeror disputes the PSAP's fault classification, a call will be held at the earliest possible opportunity to resolve the disagreement. Parties to that call should include the reporting PSAP(s) representatives, Offeror, and (at the PSAP's discretion) ASET representative(s). If agreement is not reached within 30 minutes, the PSAP classification will prevail.
3. The Offeror should remedy the non-compliance per the Service Levels and Service Management Performance Standard sections of the contract and should provide written notification of the remedy to the reporting PSAP(s) and ASET.
4. For any conditions that reset the baseline period timer, the timer will restart upon the PSAP's written acceptance of the remedy, or five business days following delivery of the remedy, whichever is sooner.

Offeror should support the following:
5. This procedure continues until compliance over the 30-day baseline period is achieved (or longer if there remain outstanding Priority Three and Priority Four faults), at which time the cutover will be deemed successful; the acceptance notice (to be defined in the test plan) will be mutually executed; and services may then be invoiced.

3.3.2.42 Call-Handling System Final Acceptance Testing

Definitions for Priority One through Priority Four faults and other terms related to acceptance testing are the same as previously defined in Error! Reference source not found..

Offeror should support the following:
System Final Acceptance Testing is intended to validate overall system performance, especially system-level functionality not otherwise verifiable during individual PSAP Acceptance Testing and includes (but will not be limited to) testing of areas such as the following: 1. Inter-PSAP transfers and conferences; 2. Automatic system failover and maintenance of full system functionality when a redundant element is taken out of service; and 3. Alternate routing under functional element and network component failure scenarios.
System final acceptance testing cannot begin until all PSAPs have successfully completed PSAP call-handling final acceptance testing. The testing period should be sufficient to demonstrate the solution's performance and reliability. The period should be 30 consecutive calendar days with zero Priority One and zero Priority Two faults.
Offeror should provide a baseline System Final Acceptance Test Plan (including specific test cases, scenarios, and expected outcomes) to the contracting PSAP(s) at least 28 days in advance of the planned execution thereof and allow the contracting PSAP(s) a full two weeks to modify the test plan to reflect their system acceptance criteria.
If a failure to comply occurs:
1. Affected PSAP(s) will provide a written notification to the Offeror with their classification of the fault according to the four categories.
2. If Offeror disputes the PSAP fault classification, a call will be held at the earliest possible opportunity to resolve the disagreement. Parties to that call should include affected PSAP(s), Offeror, and, at PSAP discretion, representative(s) from ASET. If agreement is not reached within 30 minutes, PSAP classification will prevail.
3. The Offeror should remedy the non-compliance per the Service Levels and Service Management Performance Standard sections of the contract and should provide written notification of the remedy to the affected PSAP(s).

Offeror should support the following:
4. For any conditions that reset the baseline period timer, the timer will restart upon PSAP's written acceptance of the remedy, or five business days following delivery of the remedy, whichever is sooner.
5. This procedure continues until compliance over the 30-day baseline period is achieved (or longer if there remain outstanding Priority Three and Priority Four faults), at which time the cutover will be deemed successful, the acceptance notice (to be defined in the test plan) will be mutually executed, and the call handling solution will be deemed accepted by the contracting PSAP(s).

3.3.2.43 Transition Plan

Offeror should support the following:
Within 30 days of contract signing, the Offeror should provide a detailed transition plan that should include a full description of the methods and procedures that will be employed to ensure a non-service-affecting transition from the current call-handling environment to the new system.
Provide recommendations considering the complexity of the specific deployment environment.
This transition plan should recommend a suggested order for agency migration and provide projected time durations to complete the specific site, based on position count and other information the Offeror has learned of the region's configuration.
The migration plan should include a fallback procedure to restore any affected PSAPs to a pre-transition operational state in the event of a catastrophic failure.

3.3.2.44 Product Lifecycle Management (PLM)

3.3.2.44.1 Software Release Management

Offeror should support the following:
Describe the frequency of scheduled software releases and the decision-making processes involved in deciding what features and defect resolutions to include in a scheduled release.
Maintenance releases and feature releases should be provided to all PSAPs at no cost while a maintenance agreement is in place.
Provide all PSAPs and ASET read-only access to the Offeror's defect tracking system to track the progress of PSAP-reported defect resolutions. The Offeror should provide user training to PSAP and ASET staff, prior to PSAP acceptance testing.
Notify and coordinate scheduling with affected PSAPs whenever solution servicing requires onsite visits. Notification should occur no less than ten business days before the needed visit and scheduling should be at the sole discretion of the PSAP(s).

Offeror should support the following:
Provide release notes to all affected PSAPs no less than ten business days prior to system upgrades or updates, clearly identifying any new functionality, of which the PSAPs may wish to take advantage.
Request authorization from the affected PSAP(s) no less than ten days prior to performing maintenance, upgrades, backups, restorations, or other system changes that may impact the performance or functionality of the system or service (depending on how the call-handling solution is procured). The only exception to this advance-notice requirement is in cases where an update or upgrade is immediately required to restore a failed or failing service or component.

3.3.2.44.2 Warranty and Monitoring

Offeror should support the following:
For all software and Offeror-provided, PSAP-owned hardware, Offeror shall include 24 x 7 x 365 parts and labor warranty for the duration of the contract (first five years) from the date of final PSAP acceptance. The Offeror also should provide 24 x 7 x 365 extended warranty (parts and labor) for years six and seven, as options.
For all software and Offeror-provided, PSAP-owned hardware, warranties should cover hardware, cabling and connectors, and software and include 24 x 7 x 365 phone/web support.
Should include 24 x 7 x 365 remote system monitoring and maintenance. Offeror should describe its monitoring facilities (NOC/SOC; primary, secondary, and backup; etc.) and staffing to both monitor and respond.
Describe NOC services, including proactive and reactive maintenance plans. Response should include details regarding the number of certified technicians who will reside within a two-hour drive time to each call-handling site.
System monitoring should include a near-real-time portal through which each PSAP may configure a dashboard-type view for monitoring their data and voice activity as well as overall system status and health.
Describe how out-of-warranty items are repaired or replaced. Offeror should describe the processes and procedures along with estimated cost for all system components.

3.3.2.44.3 Incident and Trouble Reporting

Offeror should support the following:
Describe the procedures involved for initiating, tracking, communicating status, and resolving trouble reports. Describe all capabilities available with the solution, including remote monitoring, maintenance, troubleshooting, and repair.
In addition to the built-in capabilities, describe capabilities to interface with other management systems using standard protocols such as Simple Network Management Protocol (SNMP) or Common Management Information Protocol (CMIP).

3.3.2.44.4 Escalation Procedures

Offeror should support the following:
Following the solution cutover, PSAPs may require escalation of an issue for resolution. Provide: A. Documentation of the escalation process along with names, titles and contact information. B. The after-hours escalation process, if it is different from normal work hours. C. Process for updating escalation documentation as personnel changes occur during the contract period.
The escalation process should address inclusion of the manufacturer (if other than Offeror) in meetings and discussions with affected PSAPs when the Offeror's efforts have not resolved the issue.
Escalation processes should describe in detail the procedures for PSAPs regarding resolution of critical defects, including time to resolution and engagement of Tier 3 or Tier 4 engineering and development resources.

3.3.2.44.5 Software Backup and Restoration

Offeror should support the following:
Perform automatic backups of software, as well as all PSAP-specific configurations and databases. The backups cannot affect system performance.
Describe in detail, in the proposal, the recommended backup schedule on the workstations, servers, and any other customer-premise-installed devices that have databases, operating systems, and/or configurations that may be backed up.

3.3.2.44.6 Maintenance and Repair History Log

Selected Offeror should support the following:
Provide, utilize, and maintain an online history log for each PSAP site that tracks all system issues, resolutions, configuration changes, upgrades, etc. that are performed onsite or remotely. Describe the process for managing the history log and provide read access to PSAPs and ASET.

3.3.2.44.7 Spares and Advance Replacement

Offeror should support the following:
Include a critical spares kit for all customer-premise-installed equipment.
Describe the plan for maintaining a readily available cache of replacement parts to be available for delivery on site within the response time frames outlined in *Appendix B - Performance Standards Definitions*.
Provide pricing and documentation describing the repair and advance-replacement processes for out-of-warranty solution components purchased (versus leased) by PSAPs.

3.3.2.45 CHE Documentation

Offeror should provide the following:
Documentation for all user-accessible configurations.
CHE (versus CHaaS) technician certification training for interested PSAPs whose staff could serve as local hands during emergency situations.
Documentation for MIS solution, if provided, including: 1. Sample reports 2. Report customization and automation; and 3. Ad hoc report design, including best practices.
Administrator guide(s) including screen layout customization and speed-dial directory maintenance, import, and export, user account management, etc.
Telecommunicator quick reference cards for call handling, mapping, discrepancy reporting, and other provided systems.

3.3.2.46 Artificial Intelligence and Machine Learning

Offeror should describe:
AI/ML capabilities of the proposed CHE system.
Plans to introduce/enhance AI/ML capabilities into the proposed CHE solution.
Opportunities to apply AI/ML technologies and techniques to the analysis of multimedia content delivered to the PSAP.

3.3.3 Call-Handling Equipment Requirements

3.3.3.1 Implementation Model

Offerors solution should support the customer premise deployment model for CHE:
Solution must be architected to support host/remote and/or geographically diverse configurations.
Include in the design all necessary hardware to successfully integrate with an i3-conformant ESInet.
All equipment must be new. Used, repurposed, or remanufactured equipment is prohibited.

3.3.3.2 Training Specific to CHE

Offeror's solution should support the following requirements:
Technician certification training (at the manufacturer's site) for one person (for PSAPs with 2 to 20 positions) or two persons (for PSAPs with more than 20 positions).
Technician training should include refresher (or new technician) training every year the same number of personnel.

3.3.4 Call Handling as a Service Specific Requirements

3.3.4.1 CHaaS Implementation Model

Offeror should support the following:
Solution may leverage networking assets (building and connectivity) already deployed by PSAP in places where establishing new facilities may be cost-prohibitive or technically not feasible.
It is a PSAP's expectation that all hardware and software required for service delivery will be provided as part of the per-position CHaaS monthly fees including all necessary edge router/firewall hardware and TDM gateways.
Solution should be able to interoperate on the same network with other vendors' standards-conformant CHaaS solutions without interfering with the performance of the other.
All equipment must be newly manufactured and fully supported by the manufacturer with no published announcements of end of sale, EOL, or EOS as of the delivery date.

3.3.4.2 Training Specific to CHaaS

Offeror should support the following:
Technician certification training for interested PSAPs or regional entities whose staff could serve as local hands and eyes during outages or malfunctions of the equipment.
Technician training should include annual refresher training for PSAP staff.

Appendix Guide

Table 3: Appendix Guide

Section	Title	Page
Appendix A	ASET 911 Program PSAP Site List, Population, and Call Data	54
Appendix B	Performance Standards Definitions	55
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Appendix A – ASET's 911 Program and PSAP Information

In the interest of critical infrastructure security, detailed PSAP information will be distributed ONLY to verified RFP Offerors upon receipt, by ASET, of notice of their intent to respond.

Appendix B – Performance Standards Definitions

Performance Terms and Standards

Service Level Agreement
An agreement between ASET and the Contractor that specifies, in measurable terms, the services that the Contractor will furnish.

Help Desk Availability
The time of day resources are available to answer calls from ASET, create trouble tickets and dispatch technicians.

Resources must be available (via tollfree telephone number) 24 x 7 x 365 to process requests for service.

Technician Availability
The time of day technicians are available to provide support remotely and/or onsite.

Technicians must be available remotely and/or onsite as required, on a 24 x 7 x 365 basis.

Regular Business Hours (RBH)
Hours between 8:00 a.m. and 5:00 p.m. Arizona time.

Customer-Generated Data – Transparency and Access Rights
Customer-Generated Data (CGD) is defined as any data that is configured within, or consumed or generated by, any of the systems, components, functional elements, services, or software applications provided by the Offeror, specifically, that data which is necessary to, or generated as a result of, providing the services or functionality called for in this RFP and which is unique to the operation and use of the systems, solutions, or services by ASET or any PSAP in Arizona. Such data may include, but is not limited to, voice and SMS "call" activity records, traces, or logs; system, component, or software troubleshooting, logs, configuration files, and diagnostics data; diagrams, drawings, or design and implementation documents which record the specific implementation details relating to ASET or any Arizona PSAP; as well as any reports or analytics based on, or derived from, CGD.

Limited Use. ASET or any PSAP in Arizona will use or disclose the CGD only in furtherance of the existing and identified Project or as required by Law.

Standard of Care. ASET or any PSAP in Arizona shall exercise at least the same degree of care as it uses with its own data and Confidential Information, but in no event less than reasonable care, to protect the CGD from misuse and unauthorized access or disclosure.

Agents and Subcontractors. ASET or any PSAP in Arizona shall ensure that any agents, including subcontractors, to whom it provides the CGD agree to the same restrictions and conditions listed in this agreement.

Personal Information. ASET or any PSAP in Arizona will not attempt to identify any Person whose information is contained in any CGD or attempt to contact those Persons.

Required Disclosure. If ASET or any PSAP in Arizona is compelled by Law to disclose any CGD it shall provide Contractor with immediate written notice so that Contractor may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this agreement; if the parties cannot obtain a protective order, other appropriate remedy, or otherwise fail to quash the legal process requiring disclosure, ASET or any PSAP in Arizona will disclose the requested CGD only to the extent necessary to satisfy the request.

In the spirit of transparency and in support of ASET's interest in being able to verify and validate Contractor's compliance with the terms, requirements, and specifications contained herein, ASET reserves, for ASET and PSAP staff (as well as their designated representatives), the right to unfettered access to any and all CGD produced or used while such solutions or services are under contract by ASET or any PSAP in Arizona. It is not the intent of this requirement to expose or reveal any proprietary information, intellectual property or trade secrets of the Contractor and requests will be limited to CGD reasonably considered to be probative of compliance, as stated, above. ASET is committed to exercising this provision only when needed and always in good faith. Contractor's responses to such requests will be provided willingly and expeditiously. Contractor is prohibited from using blanket claims that data is of a proprietary or sensitive nature, in order to shield itself from such requests. In limited cases, Contractor may require the sharing of data to be under the terms of a non-disclosure agreement (NDA).

System Performance Standards and Reporting

Offerors must identify the SLAs and metrics for the system components that will be utilized to formulate the system performance measurements for each performance standard.

System Availability

The service must be available at least 99.999 % of the time, measured on a per-PSAP basis.

Service Level and Service Management Performance Standard

Services referenced here are limited to those provided under the agreement. All times are averages over a rolling 12-month measurement period. However, there are provisions for declaring an SLA violation in cases where repeated instances occur over a short period of time.

All time intervals are calculated to the nearest minute. Performance requirements are applicable to managed and non-managed services.

Fault Priority Levels

Fault priority level definitions are the same as those in Error! Reference source not found.. For the post-cutover environment, some examples are provided, here, of issues which would be considered of the specified priority.

Priority One – Critical

Examples of such issues may include:

- Isolation of any single site or sites from the rest of the network, resulting in the inability for affected sites to communicate with the rest of the network.
- Software defect without a workaround that impacts any site or site's ability to maintain business operations.

- A reduction in call processing capacity at a single site of 50% or more.

Priority Two – Major
Examples of such issues may include:

- Loss of network or functional element redundancy, including PSAP or data center connectivity.
- System or component problem that could result in loss of a site without timely repair.
- A reduction in call processing capacity at a single site of 20% or more.
- Inability to accurately display caller location on the map.

Priority Three – Minor
Examples of such issues may include:

- Failure of a speed dial to route calls to the proper destination, requiring manual dialing or other additional steps to affect the same result.
- Misrouted calls
- Location failures, resulting in default routing of calls.

Priority Four – Non-service-impacting
Examples of such issues may include:

- Errors in data display/presentation within a user's application (layout, colors, data identification, etc.)
- Errors with peripheral systems such as recorders, MIS, auxiliary keypads, etc.
- Errors with monitoring systems, dashboards, etc.

Response Time
The time elapsed between identification (by monitoring staff) or reporting (by ASET, agency(ies), or PSAP(s)) of an issue and commencement of investigation or repair activity by Contractor.

Table 4: Maximum Response Time

Incident Severity	Maximum Response Time
Priority One	15 minutes
Priority Two	30 minutes
Priority Three	8 hours
Priority Four	12 hours

Notification Time

The time elapsed between issue identification (by monitoring personnel) and notification of the affected agencies or PSAPs. Contractor shall have the ability to provide customized notifications based on desires of ASET, agency, or PSAP.

Table 4: Maximum Notification Time

Incident Severity	Maximum Notification Time
Priority One	15 minutes
Priority Two	30 minutes
Priority Three	8 hours
Priority Four	Next Business Day

Repair Time

The time elapsed between identification (by monitoring staff) or reporting (by ASET, agency(ies), or PSAP(s)) of an issue and the resolution of that issue, with full functionality and capacity restored to normal. At the discretion of the reporting party(ies), "resolution of that issue" may be achieved by the deployment of a workaround, if accompanied by a mutually agreeable written plan for definitively resolving the original issue.

Table 5: Maximum Repair Time

Incident Severity	Maximum Repair Time
Priority One	2 hours
Priority Two	4 hours
Priority Three	48 hours
Priority Four	96 hours

Escalation

A request for assistance to the next higher level of technical support must be executed whenever the *Escalation Interval* (in the following table) has elapsed since the issue was identified or reported and issue remains unresolved. Once an escalation has occurred, the Offeror will provide ASET and affected parties with a status update at the *Update Interval* until the issue has been resolved.

Table 6: Expected Escalation Intervals

Incident Severity	Escalation Interval	Update Interval
Priority One	1 hour	2 hours
Priority Two	4 hours	8 hours
Priority Three	48 hours	24 hours
Priority Four	96 hours	As agreed to

Appendix C – IP Network Measurement and Reporting Requirements

Network Performance

The selected Offeror must measure and report on the network performance against the service levels, on a monthly basis. For any circuit downtime, outages, or interruptions, the selected Offeror must provide a written report describing the degradation of service or outage, including the root cause and the plan to prevent similar occurrences in the future. Trend data must be supplied with this report that shows current and previous monthly performances.

Outage Reporting

In the event of an unplanned outage, the Offeror will provide to ASET a reason for outage (RFO) report. This report will include a timeline of the outage, the cause of the outage, actions taken to resolve the issue, and any actions/processes undertaken by Offeror and their subcontractors to prevent similar outages from occurring in the future or to mitigate their impact, if they do. ASET requires a preliminary report within 5 business days and a final report within 30 calendar days to be measured from detection of the outage.

As defined in 47 CFR § 4.5, Offeror is responsible for complying with all Federal reporting requirements for any outages or interruptions to 9-1-1 voice or SMS routing, delivery, and/or processing systems and services provided under this contract. Offeror is required to electronically report significant network outages and information about outages that exceed specific thresholds—in terms of duration and magnitude—to the FCC's Network Outage Reporting System (NORS). The electronic report shall also include information regarding communications disruptions affecting any Enhanced 911 facilities.

Bandwidth Management

Offeror shall provide monthly bandwidth performance and network utilization reports.

ASET must be able to monitor overall bandwidth usage and specific usage between sites. ASET must be able to view real-time or near-real-time bandwidth performance and utilization reports. Users of the monitoring tools should be able to filter on various traffic characteristics (e.g., protocol, QoS classification, media type, etc.). A web-based portal or browser-enabled viewer is preferred.

Offeror's call-processing capacity shall be capable of 125% busy hour call traffic for each PSAP and the NGCS as a whole.

Offeror's service shall be able to increase call-processing capability by up to 50% over contract duration with minimal hardware upgrades required.

Voice Quality and Quality of Service

Voice quality must be maintained at traditional public switched telephone network (PSTN) levels. Voice data (RTP[5]) must have priority over any other IP traffic and this priority must be respected and enforced by all network

[5] *Real-time Transport Protocol*

infrastructure elements, end-to-end. The service shall use an uncompressed, high quality voice codec. The ESInet/NGCS must not degrade the MOS of calls traversing the ESInet by more than two-tenths (0.2) point, from the point of network ingress to the point of delivery (network-to-network interface) to a call-handling system.

Network Management and Monitoring

The Offeror must provide a NOC to respond to network issues and meet the service levels stated within this RFP, including requirements for a secondary or backup NOC.

Proactive Monitoring

It is the responsibility of the Offeror to provide active monitoring of its circuits and functional elements. Offeror must proactively generate incident tickets and alert ASET and affected PSAPs in accordance with the fault priority tables in Appendix B regarding Notification and Response Times.

Appendix D – Service Level Agreement

Offeror shall provide a description of its SLA reporting tool. A secure online SLA reporting dashboard is preferred. SLA reporting tools are expected to include both real-time and near-real-time performance statistics calculated at no greater than five-minute intervals. The SLA reporting tool shall summarize network performance metrics by hour, day, week, month, quarter, and year. The mechanism must deliver automated SLA results to ASET on a monthly schedule. QoS reporting shall present traffic by type. Reports shall include, at a minimum, statistics for latency, jitter, packet loss, and bandwidth utilization, and shall be available on demand with near real-time data. A web-based portal is preferred. Other relevant data also may be reported.

Offeror shall specify how they will conduct and provide end-of-month and end-of-quarter reviews, accounting for any degradation of service to include service failures, as well as incidents and problems, and their resolution.

SLR remedies shall be tracked to their full amount, but the maximum credit per month shall not exceed 25% of the total amount at risk (as defined, below).

Incidents shall be tracked via tickets and the ticket contents shall be made available to ASET and the affected PSAP(s) via an online portal with the ability to download or print reports.

Offeror shall have automated systems to track all SLA deliverables and provide ASET with monthly reports detailing the Offeror's performance.

The monthly SLA compliance report shall include the following detail and a one page summary of the detail:

1) Report period;
2) Offeror's trouble ticket number.
3) Name(s) of affected PSAP(s).
4) FCC ID(s) of affected PSAP(s).
5) Service type.
6) Brief trouble symptom.
7) Brief restoration description.
8) Trouble symptom category.
9) Ticket open date and time.
10) Priority level.
11) Problem resolution date and time.
12) Total outage duration.
13) Yes/no if qualified for SLR remedy.
14) Yes/no if FCC reporting required; and
    a. If Yes, link to FCC report and FCC response, if any
15) The applicable SLA.

The following table details ASET's SLRs, providing a description of each, the metric or measurement to be used to confirm compliance, the target measurement, and the affected party or parties' (ASET or PSAP(s)) rights and remedies, in the event that an Offeror fails to achieve the SLR.

For SLR violations, the remedy listed in the table, below, may be a portion of "the amount at risk". For the purposes of this section, "amount at risk" is defined, as follows:

- For services (i.e., ESInet, NGCS, CHaaS) or solutions (i.e., CHaaS and CHE) incurring a monthly recurring charge (MRC), "amount at risk" shall be the MRC for that service or solution for the month in which the SLR violation occurs.
- For services (i.e., ESInet, NGCS, CHaaS) or solutions (i.e., CHaaS and CHE), the price for which includes a non-recurring charge (NRC) component, "amount at risk" shall be the total NRC for that service or solution for the duration of the contract divided by the number of months in the contract – in other words, one month's portion of the NRC for that service or solution.
- For services (i.e., ESInet, NGCS, CHaaS) or solutions (i.e., CHaaS and CHE), the price for which includes both NRC and MRC, "amount at risk" shall be the total of the two amounts described above.

Table 5 – Service Level Requirements, Metrics, and Remedies

#	Definition	Measurement Method	Objective	Rights and Remedies
1	Final master project plan (MPP) shall be delivered to ASET (for ESInet/CHE) or PSAP(s) (for call handling) within 60 calendar days of contract execution.	Calendar Days	Delivery of MPP within 60 days	Failure to meet the objective shall result in a $5,000 credit or adjustment for each calendar day that the report is not delivered after the objective.
2	Contractor shall achieve all milestone dates identified in the MPP.	Calendar Days	Completion of MPP milestones on or before the date agreed by ASET and Offeror.	Any failure to meet the objective shall result in a $5,000 credit or adjustment for each calendar day that the milestone is not delivered after the objective (for milestones with a majority of the underlying task ownership being that of the Contractor and/or its subcontractors).
3	SLA Remedy Delivery – Timely credit or adjustment of remedies due to ASET or PSAP(s) for missed SLR objectives.	Calendar Days	Contractor's credit or adjustment shall be issued no more than 60 calendar days after written notice from ASET or PSAP(s) of a service level failure.	Each occurrence of an SLR remedy (credit or adjustment) that is not issued within 60 calendar days shall result in a $5,000 credit or adjustment for each calendar day that the credit or adjustment is not issued.

#	Definition	Measurement Method	Objective	Rights and Remedies
4	Contractor shall provide a ticketing interface and monitoring dashboard 24 x 7 x 365.	The monthly availability percentage equals the Scheduled Uptime less Unavailable Time divided by Scheduled Uptime per month multiplied by 100. Scheduled Uptime is based on 24 hours x number of days in the month x 60 minutes. The monthly Availability percentage shall be based on the cumulative total of all outage durations for each calendar month.	99.9	Failure to meet the SLR objective for one month shall result in a $2,500 credit or adjustment.

#	Definition	Measurement Method	Objective	Rights and Remedies
5	When a manual (i.e., via phone call to NOC) emergent request is made to reroute calls to alternate PSAP, call rerouting will be effective within three minutes, from the time the PSAP call is answered by the NOC for pre-provisioned routes. If the request is for standard maintenance, the reroute will be effective within seven minutes for pre-provisioned routes, and if a new route is required, that will be completed within 20 minutes of request.	Time from NOC call received by human to time the routing change becomes effective.	3 minutes (emergency) 7 minutes (maintenance) 20 minutes (new route)	Failure to meet the SLR objective shall result in a $5,000 credit or adjustment.
6	Contractor shall report all outages that potentially impact the delivery of 911 traffic to every affected PSAP within and ASET (az911outage@azdoa.gov) 15 minutes of the occurrence.	Any outage that potentially impacts the delivery of 911 traffic, regardless of traffic type.	Notification of PSAPs and ASET within 15 minutes or less.	Any failure to meet the objective shall result in a $5,000 credit or adjustment For each additional minute that the Contractor fails to meet the SLR objective, an additional $1,000 credit or adjustment will be due.

#	Definition	Measurement Method	Objective	Rights and Remedies
7	Redundant ESInet connectivity shall be provided to each end point CHE core or host site connection (except as described in the following requirement).	The monthly availability percentage equals the Scheduled Uptime less Unavailable Time divided by Scheduled Uptime per month multiplied by 100. Scheduled Uptime is based on 24 hours x number of days in the month x 60 minutes. The ESInet connectivity availability requires two diverse IP network connections to each PSAP. For those PSAPs where diverse IP network connections are not available and when approved by the ASET, the Individual ESInet connectivity SLR applies. The monthly Availability percentage shall be based on the cumulative total of all outage durations for each calendar month.	99.999% availability *(less than 5.26 minutes per year or 26.3 seconds per month of unplanned downtime)*	Failure to meet the SLR objective for one month shall result in a 25% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs. Failure to meet the SLR objective for a second consecutive month shall result in a 50% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs for that month. Failure to meet the SLR objective for each additional consecutive month shall result in a 100% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs for all such consecutive months plus an additional $25,000.

#	Definition	Measurement Method	Objective	Rights and Remedies
8	Non-redundant ESInet connectivity shall be provided to each end point CHE core or host site and will only apply when diverse NG911 trunks are not available and when approved by the ASET.	The monthly availability percentage equals the Scheduled Uptime less Unavailable Time divided by Scheduled Uptime per month multiplied by 100. Scheduled Uptime is based on 24 hours x number of days in the month x 60 minutes. The monthly Availability percentage shall be based on the cumulative total of all outage durations for each calendar month.	99.999% availability *(less than 5.26 minutes per year or 26.3 seconds per month of unplanned downtime)*	Failure to meet the SLR objective for one month shall result in a 25% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs that month. A second consecutive month failure to meet the SLR objective shall result in a 50% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs that month. Each additional consecutive month failure to meet the SLR objective shall result in a 100% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs that month.
9	Failure to provide updates to solution to conform to NENA i3 standards within 18 months of ratification.	Identification by the ASET or its designee of i3 functionality not supported.	100% conformance to NENA i3 standards within 18 months of ratification.	20% credit or adjustment of amount at risk for the ESInet and/or call handling, as applicable, until conformance issue is resolved to ASET's or PSAP's satisfaction.

#	Definition	Measurement Method	Objective	Rights and Remedies
10	ESInet and CHE must handle voice calls with little or no degradation of voice quality of the call from the ingress demarcation point to the workstation, as measured and monitored by an automated MOS measurement tool at the endpoint.	Ingress demarcation point shall be defined as the handoff point to the call handling equipment hosts.. Egress demarcation point shall be the call-handlingworkstation.	Egress MOS measurements shall be maintained at 4.0 or better.	Failure to meet the SLR objective for one month shall result in a 25% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs that month. A second consecutive month failure to meet the SLR objective shall result in a 50% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs that month. Each additional consecutive month failure to meet the SLR objective shall result in a 100% credit or adjustment of the amount at risk for the ESInet for all affected PSAPs that month.
11	CHE will receive and handle all call type traffic with minimal service interruption.	Single outage with a duration of six minutes or more.	Preventing CHE outages of six minutes or more.	100% credit or adjustment of the amount at risk for call handling for the affected PSAP(s).
12	CHE will receive and handle all call type traffic with minimal service interruption.	Single outage of greater than two minutes and less than six minutes.	Preventing CHE outages greater than two minutes, but less than six minutes.	50% credit or adjustment of the amount at risk for call handling for the affected PSAP(s).

#	Definition	Measurement Method	Objective	Rights and Remedies
13	Contractor shall provide SLA reports required by this contract for each month of activity during the term of the contract by the 10th business day of the following month.	Business Days	Contractor shall deliver accurate and complete reports by the 10th of the month following the end of the applicable reporting month.	Failure to meet the objective shall result in a $5,000 credit or adjustment for each business day that the report is not delivered after the objective.
14	Contractor shall provide a cybersecurity vulnerability notification upon recognition of a cybersecurity threat or breach within three business days of issue identification.	Business Days	Within three business days of the recognition of a vulnerability or identified cybersecurity threat or breach, Contractor shall notify the ASET and the impacted PSAP(s) of the event and measures taken to mitigate impact and avoid future risk.	Failure to meet the objective shall result in a $5,000 credit or adjustment for each business day that the report is not delivered after the objective.
15	Contractor shall provide an RFO report for Priority One and Two issues within five business days.	Business Days	Contractor shall deliver initial root cause analysis to the ASET and the affected ECDs/PSAPs within five business days of service affecting issue.	Each occurrence of a failure to meet the objective shall result in a $5,000 credit or adjustment for each business day that the report is not delivered after the objective.
16	Contractor shall provide a final RFO report within 30 calendar days from the beginning of the service affecting issue.	Calendar Days	Contractor shall deliver final RFO to the ASET and the affected ECDs/PSAPs within 30 calendar days from the beginning of the service affecting issue.	Each occurrence of a failure to meet the objective shall result in a $5,000 credit or adjustment for each business day that the report is not delivered after the objective.

Appendix E – State of Arizona IT Security Requirements

SECURITY STANDARDS

Security of the State's wide area network (WAN) and local area networks (LANs) are of **UTMOST** importance to the State. In order to assure security from a personnel and operations perspective, Contractor shall comply with all requirements, in their entirety, as described in the statewide enterprise architecture, and statewide Information Technology security policies, standards and procedures:

https://aset.az.gov/resources/policies-standards-and-procedures.

In some instances, Contractor personnel will only be allowed inside of a State facility if accompanied by a State escort. This is applicable in the Correctional facilities, Public Safety facilities, State Lottery, or other facilities as designated by the State.

SECURITY FRAMEWORK

The State of Arizona information security policies and standards follow the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) and NIST 800-53 revision 4. The State has established a process to assess risk associated with storing, processing and/or transmitting State of Arizona data with external, non-State of Arizona, entities. The Arizona Risk and Authorization Management Program (AZRamp) was developed to ensure State and contractors meet these requirements, all contractors responding to State solicitations must successfully complete the AZRamp risk assessment as determined by the Arizona Strategic Enterprise Technology (ASET) Department. Failure to successfully complete AZRamp assessment will be deemed as breach of contract.

Contractor understands and agrees no other forms of Cybersecurity Frameworks, Trust Documents, self-attestations, to include; ISO/IEC[6], SOC 2 & 3, PCI, or HIPAA reports of compliance are recognized nor accepted by State.

NIST SP 800-53 Rev. 4 guidelines can be located at:

https://csrc.nist.gov/publications/detail/sp/800-53/rev-4/final

Contractor shall comply with all applicable security requirements including but not limited to:

- Arizona Risk and Authorization Management Program (AZRamp):
  - Submit with your solicitation package a completed Arizona Baseline Infrastructure Security Controls assessment spreadsheet as found at: https://aset.az.gov/sites/default/files/Arizona%20Baseline%20Security%20Controls%20Pre-Requisite%20.xls , and mitigate gaps or install compensating controls for any issues of concern identified by State. Contractor is required to provide any requested documentation to include System Security Plan

[6] *International Organization for Standardization/International Electrotechnical Commission*

(SSP), or Information Security Policies supporting the review of the assessment. The assessment shall be re-validated on a minimum annual basis.

- All Offerors will complete and submit with your solicitation package an unedited and signed State of Arizona HIPAA Business Associate Addendum (BAA), if required by this RFP.
- If selected for award (and based on the requirements and technologies involved in this procurement), all awards are contingent on the successful completion of the AZRamp 325 Moderate (Confidential, PII[7], or PHI[8]) Impact Control Baseline spreadsheet titled "Arizona Baseline Infrastructure Security Controls 2017 (Excel)", as determined by the Enterprise Security, Privacy & Risk Compliance team. Moderate Impact controls are identified in column F of the spreadsheet located here: https://aset.az.gov/sites/default/files/Arizona%20Baseline%20Security%20Controls%202017_v2.xls

- State reserves the right to conduct risk assessments, vulnerability assessments, black-box penetration tests or hire a third party to conduct risk assessments, vulnerability assessments, and black-box penetration tests of the Contractor's environment. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all serious flaws discovered by providing an acceptable timeframe to resolve the issue and/or implement a compensating control.
- Contractor will submit copies of system logs from Contractor's environment to State of Arizona security team upon request to be added to the State Security Information Event Monitor (SIEM) or Intrusion Detection System (IDS).
- The ideal vendor solution will be contained within a Federal Risk and Authorization Management Program (FedRAMP), government-rated, single tenant cloud compartment. This preferred architecture provides protection during storage, processing, and/or transmission of sensitive or regulated State data. Information about FedRAMP Authorized SaaS, PaaS or IaaS platforms can be located at: https://marketplace.fedramp.gov/#/products?sort=productName

Contractor shall comply with all applicable State and Federal laws and regulations, including, but not limited to:

- Federal Information Security Modernization Act of 2014 (FISMA): https://csrc.nist.gov/topics/laws-and-regulations/laws/fisma
- OMB Circular A-130: https://www.federalregister.gov/documents/2016/07/28/2016-17872/revision-of-omb-circularno-a-130-managing-information-as-a-strategic-resource
- National Cyber Strategy of the United States of America: https://www.whitehouse.gov/wp-content/uploads/2018/09/National-Cyber-Strategy.pdf
- Health Insurance Portability and Accountability Act (HIPAA) including Business Associate Agreement/ Health Information Technology for Economic and Clinical Health Act (HITECH): https://www.hhs.gov/hipaa/index.html
- Tax Information Security Guidelines for Federal, State and Local Agencies: Safeguards for Protecting Federal Tax Returns and Return Information (IRS Publication 1075): https://www.irs.gov/pub/irs-pdf/p1075.pdf
- A.R.S. 18-104 - Arizona Department of Administration, Arizona Strategic Enterprise Technology (ASET), Powers and duties of the agency: https://www.azleg.gov/arsDetail/?title=18

[7] *Personally identifiable information*
[8] *Protected health information*

- A.R.S. 18-105 - Statewide information security and privacy office (SISPO): https://aset.az.gov/ars-18-105-statewide-information-security-and-privacy-office
- A.R.S. 18-552 - Notification of security system breaches; requirements; enforcement; civil penalty; preemption; exceptions: https://www.azleg.gov/ars/18/00552.htm
- Arizona Executive Order 2008-10 – Mitigating Cyber Security Threats: https://aset.az.gov/executive-order-2008-10-mitigating-cyber-security-threats
- State of Arizona statewide policies, standards and procedures: https://aset.az.gov/resources/policies-standards-and-procedures
- SIPC Memorandum of Understanding (MOU): https://www.sipc.org/about-sipc/
- State Environmental policies: https://azdeq.gov/LawsAndRules
- Family Education Rights Privacy Act (FERPA): https://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html
- Driver's Privacy Protection Act (DPPA): https://azdot.gov/motor-vehicles/driver-services/driver-license-information/motor-vehicle-records
- Incident Response Reporting program and system: https://aset.az.gov/sites/default/files/P8240%20Incident%20Response%20Planning_Sept2018_0.pdf
- Privacy Incident Reporting policy and standards: https://aset.az.gov/sites/default/files/STANDARD%208240%20INCIDENT%20RESPONSE%20PLANNING.pdf
- State of Arizona Library, Archives and Public Records, Records Management Division, General Retention Schedules https://azlibrary.gov/arm/policies
- Payment Card Industry (PCI) Security Standards including but not limited to Supplemental Documents, Information Supplements and Validation Requirements: https://www.pcisecuritystandards.org/

Appendix F – Glossary of Terms

Acronym	Term	Definition
ACD	Automatic Call Distribution (Distributor)	Equipment that automatically distributes incoming calls to available PSAP attendants in the order the calls are received, or queues calls until an attendant becomes available.
ADR	Additional Data Repository	A data storage facility for data that further describes the nature of how the call was placed, the person(s) associated with the device placing the call, or the location the call was placed from. There are three types of Additional Data: Additional Data for the Call, Additional Data for the Caller and Additional Data for the Location.
AGC	Automatic Gain Control	Auto-focus of audio.
AI	Artificial Intelligence	The theory and development of computer systems able to perform tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages.
ALI	Automatic Location Identification	Tabular reference for the current 911 system. Defines destination PSAP for every landline telephone number and cellular tower.
ANI	Automatic Number Identification	Telephone number (TN) associated with the access line from which a call originates.
APCO	Association of Public-Safety Communications Officials-International	Organization of public safety communications professionals providing public safety communications expertise, professional development, technical assistance, advocacy and outreach to its members and the public.
ATIS	Alliance for Telecommunications Industry Solutions	A U.S.-based organization that is committed to developing and promoting technical and operations standards for the communications and related information technologies industry worldwide using a pragmatic, flexible and open approach. www.atis.org
ATP	Acceptance Test Plan	An Acceptance Test Plan (ATP) describes the acceptance testing process, such as the features to be tested, pass/fail criteria, approach to testing, checklists, roles and responsibilities, resource requirements and schedules.

Acronym	Term	Definition
BCF	Border Control Function	Provides a secure entry into the ESInet for emergency calls presented to the network. The BCF incorporates firewall, admission control, and may include anchoring of session and media as well as other security mechanisms to prevent deliberate or malicious attacks on PSAPs or other entities connected to the ESInet.
CAD	Computer-Aided Dispatch	A computer-based system that aids PSAP telecommunicators by automating selected dispatching and record-keeping activities.
CDR	Call Detail Record	The data information sent to the ALI computer by a remote identifying device.
CHaaS	Call Handling as a Service	Call Handling Equipment (CHE) provided as a service and delivered over the ESInet as opposed to a capital purchase in an own/operate model.
CHE	Call-Handling Equipment	The PSAP equipment needed to manage and handle the details of all communication from the caller. It includes the interfaces, devices and applications utilized by the Agents to handle the call.
CID	Caller ID	A telephone service, available in analog and digital telephone systems, including voice over IP (VoIP), that transmits a caller's telephone number to the called party's telephone equipment when the call is being set up.
CJIS	Criminal Justice Information Services	Serves as the focal point and central repository for criminal justice information services in the FBI. Programs initially consolidated under the CJIS Division included the National Crime Information Center (NCIC), Uniform Crime Reporting (UCR), and Fingerprint Identification. In addition, responsibility for several ongoing technological initiatives was transferred to the CJIS Division, including the Integrated Automated Fingerprint Identification System (IAFIS), NCIC 2000, and the National Incident-Based Reporting System (NIBRS). https://www.fbi.gov/about-us/cjis
CLEC	Competitive Local Exchange Carrier	See “Local Exchange Carrier”.
CMIP	Common Management Information Protocol	OSI-specified network management protocol; models management information in terms of managed objects and allows modification and performing actions on the objects.
COOP	Continuity of Operations	A Continuity of Operations (COOP) plan will document how the organization, division or department will perform essential operations during an emergency situation.

Acronym	Term	Definition
CPE	Customer Premises Equipment	Communications or terminal equipment located in the customer's facilities. (The 9-1-1 telephone equipment at the PSAP.)
CPN	Calling Party's Number	The call back number associated with a wireless telephone. The CPN may also be the Mobile Directory Number (MDN), Mobile Identification Number (MIN), a temporary call back number, a tracking number or ID number and may not support call back in all cases.
CSAA	Central Station Alarm Association	The CSAA, which historically monitored only fire and burglar alarms, is now known as *The Monitoring Association*, and now also monitors medical devices, access control and other non-emergency events. The Association advances the professional monitoring industry through education, advocacy and public safety relationships.
CSV	Comma-Separated Values	A comma-separated values (CSV) file is a delimited text file that uses a comma to separate values. Each line of the file is a data record.
DBMS	Database Management System	A system of manual procedures and computer programs used to create, store and update the data required to provide Selective Routing (SR) and/or Automatic Location Identification (ALI) for E9-1-1 systems. Also known as: DMS
DOJ	Department of Justice	The DOJ is responsible for the enforcement of law and administration of justice in the U.S.
DR	Disaster Recovery	The process of resuming normal operations following a disaster by regaining access to data, hardware, software, networking equipment, power, and connectivity.
ECD	Emergency Communications District	A group of public safety agencies.
ECRF	Emergency Call Routing Function	A functional element in an NGCS (Next Generation 9-1-1 Core Services) which is a LoST protocol server where location information (either civic address or geo-coordinates) and a Service URN serve as input to a mapping function that returns a Uniform Resource Identifier (URI) used to route an emergency call toward the appropriate PSAP for the caller's location or towards a responder agency. • External ECRF: An ECRF instance that resides outside of an NGCS instance. • Internal ECRF: An ECRF instance that resides within and is only accessible from an NGCS instance.

Acronym	Term	Definition
	Egress	At the egress port on the NGCS solution, where it connects to the ESInet out to the PSAPs.
EIDD	Emergency Incident Data Document	The Emergency Incident Data Document (EIDD) provides a standardized, industry-neutral National Information Exchange Model (NIEM) conformant (XML-based) specifications for exchanging emergency incident information to agencies and regions that implement NG9-1-1 and Internet Protocol (IP) based emergency communications systems. Emergency incident information exchanges supported by the EIDD include exchanges between disparate manufacturers' systems located within one or more public safety agencies and with other incident stakeholders.
EIDO	Emergency Incident Data Object	A JSON-based (JavaScript Object Notation) object that is used to share emergency incident information between and among authorized entities and systems.
EOL	End-of-Life	A term used with respect to a product supplied to customers indicating that the product is in the end of its useful life (from the vendor's point of view), and a vendor stops marketing, selling, or rework sustaining it.
EOS	End-of-Support	A term used with respect to a product or service supplied to customers indicating that the manufacturer intends to end further support of the product or service.
ESIND	Emergency Services IP Network Design	A set of network design requirements necessary to ensure that ESInets meet industry standards for NG911 systems.
ESInet	Emergency Services IP Network	Managed IP network that is used for emergency services communications, and which can be shared by all public safety agencies. It provides the IP transport infrastructure upon which independent application platforms and core services can be deployed, including, but not restricted to, those necessary for providing NG911 services.

Acronym	Term	Definition
ESRP	Emergency Services Routing Proxy	An i3[9] functional element that is a SIP proxy server; that the ESRP selects the next-hop routing within the ESInet based on location and policy. There is an ESRP on the edge of the ESInet. There is usually an ESRP at the entrance to an NG911 PSAP. There may be one or more intermediate ESRPs between them. Originating ESRP: The first routing element within the NGCS. It receives calls from the BCF at the edge of the ESInet. Terminating ESRP: The last ESRP for a call in NGCS.
ESZ	Emergency Service Zone	A geographical area that represents a unique combination of emergency service agencies (e.g., law enforcement, fire/rescue, and emergency medical service) that is within a specified 911 governing authority's jurisdiction.
FCC	Federal Communications Commission	An independent U.S. government agency overseen by Congress, the Federal Communications Commission regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories.
GIS	Geographic Information System	A system for capturing, storing, displaying, analyzing, and managing data and associated attributes which are spatially referenced.
HELD	HTTP-Enabled Location Delivery	A protocol that can be used to acquire Location Information (LI) from a LIS within an access network as defined in IETF RFC 5985.
	Help Desk Availability	The time of day resources are available to answer calls from the PSAP or ASET to create trouble tickets and dispatch technicians.
HMI	Human-Machine Interface	The means through which a person interacts with an automated system/machine. A vehicle or an installation is sometimes referred to as the human machine interface.
HTTP	Hypertext Transfer Protocol	Typically used between a web client and a web server that transports HTML and/or XML.
i3	National Emergency Number Association's (NENA) designation for its Next Generation 911 (NG911) system specifications and definitions	NENA i3 introduces the concept of an Emergency Services IP network (ESInet), which is designed as an IP-based inter-network (network of networks) shared by all agencies which may be involved in any emergency.

[9] https://www.nena.org/resource/resmgr/standards/NENA-STA-010.2_i3_Architectu.pdf
[Link operational as of June 16, 2020]

Acronym	Term	Definition
i3 PSAP	A Public Safety Answering Point equipped with a call handling system capable of connecting to and receiving calls from an i3 NGCS call routing system.	NENA i3 introduces the concept of an ESInet, which is designed as an IP-based internetwork (network of networks) shared by all agencies that may be involved in any emergency. A PSAP that is capable of receiving IP-based signaling for delivery of emergency calls and for originating calls and is conformant to NENA-STA-010 and other specifications for such PSAPs.
IDS	Intrusion Detection System	An intrusion detection system is a device or software application that monitors a network or systems for malicious activity or policy violations. Any intrusion activity or violation is typically reported either to an administrator or collected centrally using a security information and event management system.
IDX	Incident Data Exchange	A Functional Element that facilitates the exchange of Emergency Incident Data Objects (EIDOs) among other Functional Elements both within and external to an agency. (Previously called “IDE”)
IETF	Internet Engineering Task Force	Lead standard setting authority for Internet protocols.
ILEC	Incumbent Local Exchange Carriers	A telephone company that had the initial telephone company franchise in an area.
	Ingress	At the SIP interface on any LNG or LSRG, depending on the connection.
IoT	Internet of Things	A system of interrelated computing devices, mechanical and digital machines provided with unique identifiers and the ability to transfer data over a network without requiring human-to-human or human-to-computer interaction.
IP	Internet Protocol	The method by which data is sent from one computer to another on the Internet or other networks.
IPSR	Internet Protocol Selective Router	Routes calls based upon geospatial data, ensuring that all current and future call types—including text, multimedia, Voice over IP (VoIP), wireless, and landline—can be routed to the appropriate PSAP. Routing rules are defined in the solution, such as call delivery based upon the geography of an incoming call.
IS-ADR	Identity Searchable Additional Data Repository	An Additional Data Repository that provides a service that can search for Additional Data based on a sip/sips or tel URI: (e.g., Additional Data for the caller).

Acronym	Term	Definition
ITSM	Information Technology Service Management	How IT teams manage the end-to-end delivery of IT services to customers. This includes all the processes and activities to design, create, deliver, and support IT services. The core concept of ITSM is the belief that IT should be delivered as a service.
KPI	Key Performance Indicator	A measurable value that demonstrates how effectively a company is achieving key business objectives. Organizations use KPIs at multiple levels to evaluate their success at reaching targets.
LATA	Local Access and Transport Area	The geographical areas within which a local telephone company offers telecommunications services.
LATA POI	Local Access and Transport Area – Point of Interconnection	The geographical areas within which a local telephone company offers telecommunications services and a physical demarcation between an originating carrier network and an NG9-1-1 network.
LDB	Location Database	The server that retains all of the current information, functionality, and interfaces of today's ALI and can utilize the new protocols required in an NG911deployment.
LEC	Local Exchange Carrier	A Telecommunications Carrier (TC) under the state/local Public Utilities Act that provides local exchange telecommunications services. Also known as: • Incumbent Local Exchange Carriers (ILECs) • Alternate Local Exchange Carriers (ALECs) • Competitive Local Exchange Carriers (CLECs) • Competitive Access Providers (CAPs) • Certified Local Exchange Carriers (CLECs) • Local Service Providers (LSPs)
LIS	Location Information Server	A functional element in an IP-capable originating network that provides locations of endpoints (i.e., calling device). A LIS can provide Location-by-Reference, or Location-by-Value, and, if the latter, in geo or civic forms. A LIS can be queried by an endpoint for its own location, or by another entity for the location of an endpoint. In either case, the LIS receives a unique identifier that represents the endpoint, for example an IP address, circuit-ID or Media Access Control (MAC) address and returns the location (value or reference) associated with that identifier. The LIS is also the entity that provides the dereferencing service, exchanging a location reference for a location value.
LNG	Legacy Network Gateway	A NG9-1-1 Functional Element that provides an interface between a non-IP originating network and a Next Generation Core Services (NGCS) enabled network.

Acronym	Term	Definition
LoST	Location-to-Service Translation	A NG9-1-1 Functional Element that provides an interface between a non-IP originating network and a Next Generation Core Services (NGCS) enabled network.
LPG	Legacy PSAP Gateway	A signaling and media interconnection point between an ESInet and a legacy PSAP. It plays a role in the delivery of emergency calls that traverse an i3 ESInet to get to a legacy PSAP, as well as in the transfer and alternate routing of emergency calls between legacy PSAPs and NG9-1-1 PSAPs. The Legacy PSAP Gateway supports an IP (i.e., SIP) interface towards the ESInet on one side, and a traditional MF or Enhanced MF interface (comparable to the interface between a traditional Selective Router and a legacy PSAP) on the other.
LNG	Legacy Network Gateway	An NG9-1-1 Functional Element that provides an interface between a non-IP originating network and a Next Generation Core Services (NGCS) enabled network.
LSRG	Legacy Selective Router Gateway	Provides an interface between a 9-1-1 Selective Router and an ESInet, enabling calls to be routed and/or transferred between Legacy and NG networks. A tool for the transition process from Legacy 9-1-1 to NG9-1-1.
LTE	Long-Term Evolution	A standard for wireless communication of highspeed data for mobile phones and data terminals developed by the 3rd Generation Partnership Project (3GPP).
LVF	Location Validation Function	A functional element in an NGCS that is a LoST protocol server where civic location information is validated against the authoritative GIS database information.
MIS	Management Information System	A program that collects, stores, and collates data into reports enabling interpretation and evaluation of performance, trends, traffic capacities, etc.
ML	Machine Learning	Machine learning is the study of computer algorithms that improve automatically through experience. It is seen as a subset of artificial intelligence.
MLTS	Multiline Telephone System	A system comprised of common control unit(s), telephone sets, control hardware and software and adjunct systems used to support the capabilities outlined herein. This includes network and premises-based systems. E.g., Centrex, VoIP, as well as PBX, Hybrid, and Key Telephone Systems (as classified by the FCC under Part 68 Requirements) and includes systems owned or leased by governmental agencies and non-profit entities, as well as for profit businesses.

Acronym	Term	Definition
MOP	Method of Procedure	A step-by-step guideline for completing a project.
MOS	Mean Opinion Score	A measure used in the domain of Quality of Experience and telecommunications engineering, representing overall quality of a stimulus or system. It is the arithmetic mean over all individual values on a predefined scale that a subject assigns as an opinion on the performance of a system quality. Such ratings are usually gathered in a subjective quality evaluation test, but they can also be algorithmically estimated.
MPP	Master Project Plan	The detailed project plan that specifies the project's scope, cost, schedule, activities, and resources.
MRC	Monthly Recurring Charge	A charge set to recur automatically each billing month.
MSAG	Master Street Address Guide	A database of street names and house number ranges within their associated communities defining Emergency Service Zones (ESZs) and their associated Emergency Service Numbers (ESNs) to enable proper routing of 911 calls. Tabular reference for address validation in the current 911 system. Defines all possible addresses within a jurisdiction.
MSRP	Message Session Relay Protocol	A standardized mechanism for exchanging instant messages using SIP where a server relays messages between user agents.
NENA	National Emergency Number Association	Standards body for 911 and NG911.
NENA i3	See i3 above	
NERC	North American Electric Reliability Corporation	A not-for-profit international regulatory authority whose mission is to assure the effective and efficient reduction of risks to the reliability and security of the electric grid.
NG911	Next Generation 911	An Internet Protocol (IP)-based system comprised of managed Emergency Services IP networks (ESInets), functional elements (applications), and databases that replicate traditional E9-1-1 features and functions and provides additional capabilities. NG9-1-1 is designed to provide access to emergency services from all connected communications sources and provide multimedia data capabilities for Public Safety Answering Points (PSAPs) and other emergency service organizations.

Acronym	Term	Definition
NGCS	Next Generation Core Services	The base set of services needed to process a 9-1-1 call on an ESInet. Includes the ESRP, ECRF, LVF, BCF, Bridge, Policy Store, Logging Services and typical IP services such as DNS and DHCP. The term NG9-1-1 Core Services includes the services and not the network on which they operate. See Emergency Services IP Network.
NG-SEC	Security for Next Generation 911	Short name for NENA Standard 75-001, *Security for Next-Generation 9-1-1 (NG-SEC)*.
NIEM	National Information Exchange Model	A community-driven, standards-based, national model for structured information sharing. www.niem.gov
NIST	National Institute of Standards and Technology	A part of the United States Department of Commerce that oversees the operation of the U.S. National Bureau of Standards. NIST works with industry and government to advance measurement science and to develop standards in support of industry, commerce, scientific institutions, and all branches of government. Their mission is to promote innovation and industrial competitiveness. www.nist.gov
NOC	Network Operations Center	A centralized location where IT support technicians can supervise, monitor, and maintain client networks.
NORS	Network Outage Reporting System	System used by the FCC for communications providers to report significant network outages.
	Notification Time	The interval between recognition of an issue and communication to the reporting party of the issue.
NRC	Non-recurring Charge	A one-time charge by a vendor for a specific cost.
NSI	Non-Service Initiated	A mobile device for which there is no valid service contract with any CMRS provider. As such, NSI devices have no associated subscriber name and address, do not provide a call-back number, and may not provide location.
NTP	Network Time Protocol	A networking protocol for clock synchronization between computer systems over packet-switched, variable-latency data networks.
OSP	Originating Service Provider	A communications provider that allows its users or subscribers to originate 911 voice or nonvoice messages to a PSAP. This includes but is not limited to wireline, wireless and VoIP services.
pANI	Pseudo automatic number identification	A telephone number used to support routing of wireless 911 calls.
PCA	PSAP Credentialing Agency	The root authority designated to issue and revoke security credentials (in the form of an X.509 certificate) to authorized 911 agencies in an i3-compliant infrastructure.

Acronym	Term	Definition
PIDF-LO	Presence Information Data Format Location Object	Provides a flexible and versatile means to represent location information in a SIP header using an XML schema.
PIF	Protocol Interworking Function	That functional component of a Legacy Network Gateway (LGN) or Legacy PSAP Gateway that interworks legacy PSTN signaling such as ISUP or CAMA with SIP signaling.
POI	Point of Interconnection	A Physical Demarcation between an originating carrier network and an NG9-1-1 network.
PRF	Policy Routing Function	That functional component of an Emergency Services Routing Proxy (ESRP) that determines the next hop in the SIP signaling path using a policy.
PRR	Policy Routing Rule	Rules established for forwarding and routing data packets based on defined policies.
PSAP	Public Safety Answering Point	The entity responsible for receiving 911 calls and processing those calls according to a specific operational policy.
PSTN	Public Switched Telephone Network	The network of equipment, lines, and controls assembled to establish communication paths between calling and called parties in North America.
QoS	Quality of Service	As related to data transmission a measurement of latency, packet loss and jitter.
RBH	Regular Business Hours	The hours that an organization has individuals staffed to take calls, generally 8 am to 5 pm Central and Eastern; depending on the location of the end site.
	Response Time	The interval between a trouble ticket being created and when a qualified resource is actively involved in addressing issues recorded in a trouble ticket.
	Repair Time	The interval between a trouble ticket being created and the technology issue being resolved, or an acceptable workaround is in place, and all functions have been restored to normal.
REST	Representational State Transfer	An interface that transmits domain-specific data over HTTP without an additional messaging layer such as simple object access protocol (SOAP) or session tracking via HTTP cookies.
RFC	Request for Comments	A request for document review by interested parties after a drafting committee/group has drafted a document.
RFO	Reason for Outage	A document provided by a vendor that provides details about an interruption in service.

Acronym	Term	Definition
RFP	Request for Proposals	A document that solicits proposal, often through a bidding process, by an agency or company interested in procurement of a commodity, service, or valuable asset, to potential suppliers.
RTP	Real-time Transport Protocol	An **Internet Protocol standard that specifies the way programs manage the real-time transmission of multimedia data over unicast or multicast network services**.
RTT	Real-Time Text	Text transmission that is character at a time, as in TTY.
SBC	Session Border Control	A commonly available functional element that provides security, NAT traversal, protocol repair and other functions to VoIP signaling such as SIP. A component of a Border Control Function.
SI	Spatial Interface	A standardized interface between the GIS and the functional elements that consume GIS data, such as the ECRF and/or LVF.
SIP	Session Initiation Protocol	A protocol specified by the Internet Engineering Task Force (IETF) (RFC3261) that defines a method for establishing multimedia sessions over the internet. Used as the call-signaling protocol in VoIP, NENA i2 and NENA i3.
SIPREC	Session Recording Protocol	An open SIP-based protocol for call recording.
SLA	Service Level Agreement	A contract between a service provider (either internal or external) and the end user that defines the level of service expected from the service provider. SLAs are output-based in that their purpose is specifically to define what the customer will receive.
SLR	Service Level Requirement	Collection of requirements that is gathered by the IT service provider detailing the service requirements with respect to description of the service, availability, capacity, continuity, service level objectives, service level targets, suppliers needed, roles and responsibilities needed.[10]
SMS	Short Messaging Service	A text messaging service component of most telephone, internet and mobile device systems.
SNMP	Simple Network Management Protocol	A protocol used for managing devices on an IP network.
SOC	Security Operations Center	A centralized unit that deals with security issues on an organizational and technical level.

[10] https://www.itil-docs.com/it-service-level-requirements-template/

Acronym	Term	Definition
SQL	Structured Query Language	A language used in programming and designed for managing data held in a relational database management system.
SR	Selective Router	The Central Office that provides the tandem switching of 9-1-1 calls. It controls delivery of the voice call with ANI to the PSAP and provides Selective Routing, Speed Calling, Selective Transfer, Fixed Transfer, and certain maintenance functions for each PSAP. Also known as Enhanced 911Control Office or 911 Tandem.
SSAE 16	Standards for Attestation Engagements Number 16	A deprecated auditing standard for service organizations, produced by the American Institute of Certified Public Accountants.
	System Availability	The percentage of time service is available; measured on a per-PSAP basis.
TCC	Text Control Center	A set of functions to interface between a carrier-originated wireless 911 text user and the PSAP environment. The TCC uses some of the functions of core NG9-1-1 system design, with additional specialized functionality to meet the needs of SMS text-to-9-1-1. When TCCs from different vendors are able to interoperate with each other, PSAPs can connect to multiple carriers through a single TCC.
TDD	Telecommunications Device for the Deaf	Text-based telecommunications equipment used by a person who does not have enough functional hearing to understand speech, even with amplification.
TDM	Time Division Multiplexing	A digital multiplexing technique for combining a number of signals into a single transmission facility by interweaving pieces from each source into separate time slots.
TDoS	Telephone Denial of Service	Illegal attacks targeting the telephone network by generating numerous 911phone calls, tying up the network and preventing an agency from receiving legitimate calls.
TIA	Telecommunications Industry Association	A lobbying and trade association, the result of the merger of the USTA (United States Telephone Association) and the EIA (Electronic Industries Association).
TTY	Teletypewriter	A teleprinter, an electronic device for text communication over a telephone line that is designed for use by persons with hearing or speech difficulties.
TVSS	Transient Voltage Surge Suppression	Devices designed to protect critical PSAP equipment from transients induced on powering and data/signal/telecommunications conductors.

Acronym	Term	Definition
UI	User Interface	The means by which the user and computer system interact.
UPS	Uninterruptible Power Supply	An electrical apparatus that provides emergency power to a load when the input power source or main power fails.
URI	Uniform Resource Identifier	An identifier consisting of a sequence of characters that enables uniform identification of resources via a set of naming schemes.
URN	Uniform Resource Name	A type of URI. Uniform Resource Names (URNs) are intended to serve as persistent, location independent, resource identifiers and are designed to make it easy to map other namespaces (which share the properties of URNs) into URN-space.
VoIP	Voice over Internet Protocol	Telephone service provided through the internet rather than traditional telephone lines. This includes FIOS™, cable service such as Comcast and Time Warner, and purchased devices like Ooma, Google Voice, or Magic Jack.
VPN	Virtual Private Network	A network implemented on top of another network, and private from it, providing transparent services between networks or devices and networks. VPNs often use some form of cryptographic security to provide this separation.
XML	eXtensible Markup Language	An internet specification for web documents that enables tags to be used that provide functionality beyond that in Hyper Text Markup Language (HTML). In contrast to HTML, XML has the ability to allow information of indeterminate length to be transmitted to a PSAP call taker or dispatcher versus the current restriction that requires information to fit the parameters of pre-defined fields.

End of Section 2-A

Section 2-B: Pricing Document

1.0 Compensation

1.1 COMPENSATION METHOD

Contractor will be compensated based on the final detailed written quote approved by the Customer. Pricing shall not exceed the labor rates indicated on the Pricing Document.

2.0 Pricing

2.1 CONTRACTOR'S BEST PRICING. Supplier warrants that, for the term of the Contract, the prices and discounts set out in Attachments/Exhibits titled ATTACHMENT 4_PRICING_BPM003444_NG911 _CHE.XLSX to this Pricing Document, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent services, items of equipment and materials.

2.1.1 That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances.

2.1.2 If Contractor's Best Pricing for equivalent services, items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.

2.1.3 For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If it was before, then Supplier agrees to charge at less than the Contract Pricing until the extended difference that would have been realized (i.e., if the Contractor's Best Pricing had been applied when it should have been) has been settled.

2.2 PRICING-ALL-INCLUSIVE:

2.2.1 Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's offer as accepted by State. Details of service not explicitly stated in the Scope of Work or in Contractor's Offer, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and profit and any other costs toward the accomplishment of the requirements in the Contract are included in the pricing provided.

2.2.2 *Pricing Structure for Call Handling* – In order to stabilize State 911 Program budgeting, make pricing more predictable, and save Offerors the effort of individually pricing all 83 PSAPs in Arizona, ASET requests that Offerors provide ***per-position pricing*** for both their CHaaS and CHE proposals. ASET's preference is either for a fixed per-position price, regardless of the number of positions (typically used for CHaaS) OR a tiered per-position pricing structure, as follows:

Tier 1: 2 to 5 positions = $W per position

Tier 2: 6 to 20 positions = $X per position

Tier 3: 21 to 50 positions = $Y per position

Tier 4: 51 or more positions = $Z per position

NOTE For the purposes of this pricing proposal, CHE vendors may assume that every PSAP will have redundant broadband connections to the statewide ESInet and that all 911 calls will be delivered via the ESInet (i.e., no LPG will be needed) at the time of CHE deployment.

2.2.3 *Optional Pricing for Call Location Mapping in Call Handling Solution* – As mentioned in the Call Handling section of the Scope of Work (above), ASET is interested in providing a call location mapping capability to all PSAPs that is completely integrated into the call-handling application. If such capability is not an included, no-additional-charge, feature of the proposed call-handling solution(s), Offeror is asked to provide separate, optional pricing for such an add-on. Such pricing should NOT be "baked-in" to the solution price for all PSAPs if it is normally sold as an optional, for-fee feature.

2.3 PRICE INCREASES:

2.3.1 The State may review a fully documented request for a price increase. The requested increase shall be in writing and be based upon a cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. Contractor must provide conclusive evidence of a need for any price increases such as being substantiated by the Producer Price Index, Consumer Price Index, or similar pricing guide.

(a) Initial Contract prices will be honored for one year after award of Contract.

(b) All written requests for price adjustments made by the Contractor shall be initiated thirty (30) days in advance of any desired price increase to allow the State sufficient time to make a fair and equitable determination to any such requests. This may be waived upon proper documentation demonstrating the urgency of the request.

(c) All price adjustments will be implemented by a formal contract amendment. The State shall determine whether the requested price increase or an alternate option is in the best interest of the State.

2.4 PRICE REDUCTIONS:

2.4.1 Price reductions shall be immediately passed along to the State and may be submitted in writing to the State for consideration at any time during the Contract period. The Contractor shall offer the State a price reduction on the Contract product(s) concurrent with a published price reduction made to other customers. The State, at its own discretion, may accept a price reduction. The price reduction request shall be in writing and include documentation showing the actual reduction of cost. Sales promotions requests shall include difference in pricing, begin and end date of promotion, along with the products covered.

2.5 ADDITIONAL CHARGES:

2.5.1 Any charges or fees not delineated in the Contract may not be added, billed, or invoiced under the Contract.

2.6 TRAVEL.

2.6.1 Contractor shall get written approval prior to any travel under the Contract in which reimbursement of expenses will be requested. Contractor will be reimbursed for actual expenses incurred in accordance with the current rates specified in the State's Travel Policy. Contractor shall itemize all per diem and lodging charges. The State Travel Policy, including State rates, may be located at https://gao.az.gov/travel. The Eligible Entity/Customer shall reject any claim for travel reimbursement without prior written approval.

3.0 Funding

No particular funding considerations, apart from paragraph 4.4 [*Availability of Funds for the Next State fiscal year*] and 4.5 [*Availability of Funds for the Current State fiscal year*] of the Uniform Terms and Conditions have been identified as of the Solicitation date.

4.0 Invoicing

4.1 INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Entity/Customer (e.g., Eligible Agency or Co-Op Buyer) at the address indicated on the applicable Order document or by utilizing the Buying Entity's purchasing tool/process.

4.2 MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	■
Contractor name and contact information	■
Remit-to address	■
State contract number	■
Order number (typically the State's e-Procurement System PO #)	■
Invoice number and date	■
Date the items shipped or services performed	■
Applicable payment terms	■
Contract line item number	■
Contract line item description	■
Quantity delivered or performed	■
Line item unit of measure	■
Item price	■
Extended pricing	■
Discount off list or catalog	■
Taxes *(as a separate invoice line item)*	■
Upcharge shipping/freight, etc. *(as a separate invoice line item)*	Materials only
Total invoice amount due	■

4.3 NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for any:

1. Materials or Services that have not been authorized on an acknowledged Order;
2. Expediting, overtime, premiums, or upcharges absent State's express prior approval; or
3. Materials or Services that are the subject of a Contract Amendment that has not been fully signed.

4.4 PRE-INVOICE REVIEW. Shortly before Contractor is scheduled to submit each invoice, the parties' representatives shall meet informally to review any issues relevant to that upcoming invoice so that the formal invoice process is thereby facilitated and made more efficient.

4.5 SUBMITTING INVOICES. Contractor shall submit an invoice to the ordering Eligible Agency or Co-Op Buyer using the form and/or process provided or required by the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer). Every invoice must be signed by Contractor's authorized representative and accompanied by all supporting information and documentation required by the Contract and applicable laws.

4.6 DEFECTIVE INVOICES. Without prejudice to its other rights under the Contract or further obligation to Contractor, the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer) may, at its discretion, reject any materially defective invoice.

4.6.1 The ordering Authorize Entity/Customer (Eligible Agency or Co-Op Buyer) shall notify Contractor within 5 (five) business days after receipt if it determines an invoice to be materially defective.

4.6.2 Invoices will be deemed automatically rejected upon delivery if they:

(a) are sent to an incorrect address;

(b) do not reference the correct State contract number; or

(c) are payable to any Person other than the Contractor.

4.6.3 The ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer) will have no obligation to pay against a defective invoice unless and until Contractor has re-submitted it free of defects.

5.0 Payments

5.1 PAYMENT. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Section 4.0 Costs and Payments of the Uniform Terms and Conditions

5.2 JOINT CHECKS OR DIRECT PAY. applicable Eligible Agency or Co-Op Buyer may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.

5.3 RECOVERY OF OVER-PAYMENT. If applicable Eligible Agency or Co-Op Buyer determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.

5.4 PAYMENTS TO SUBCONTRACTORS. Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from applicable Eligible Agency or Co-Op Buyer applicable to their services.

5.5 PURCHASING CARD. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders using a purchasing card. Any and all fees related to payment using a Purchasing Card are the responsibility of Contractor. Unless otherwise stated in the Contract there will be no additional fees or increase in prices associated with this method of payment.

5.6 AUTOMATED CLEARING HOUSE. Applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner from Eligible Agencies, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at:

https://gao.az.gov/afis/vendor-information

6.0 Exhibits to the Pricing Document

None.

End of Section 2-B

Section 2-C: Special Terms and Conditions

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1	Acceptance	"Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services.
1.2	Accepted Offer	If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer. If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer. If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer.
1.3	Arizona Procurement Code; A.R.S.; A.A.C.	"Arizona Procurement Code, "A.R.S.," and "A.A.C." are each defined in the Instructions to Offerors.
1.4	Arizona TPT	"Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at: https://www.azdor.gov/business/transactionprivilegetax.aspx
1.5	Attachment	"Attachment" means any item that: 1. the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO); 2. was attached to an Offer when submitted; and 3. was included in the Accepted Offer.
1.6	Pricing Document	"Pricing Document" means Section 2-B of Part 2 of the Solicitation Documents, provided that, if there is no such Section in the Contract, then "Pricing Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.
1.7	Contract Amendment	"Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution.
1.8	Contract Terms and Conditions	"Contract Terms and Conditions" means the Special Terms and Conditions and these Uniform Terms and Conditions taken collectively.
1.9	Contractor	"Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with State.
1.10	Contractor Indemnitor	"Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors.
1.11	Co-Op Buyer	"Co-Op Buyer" means a member of the State Purchasing Cooperative that has entered into a "Cooperative Purchasing Agreement" with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative

Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, "Co-Op Buyer" is to be construed as encompassing "eligible procurement unit" under A.A.C. R2-7-101(23).

NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, "non-profit organizations" are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.

1.12 Eligible Agency

If the Special Terms and Conditions indicates that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein. If the Special Terms and Conditions indicates that the Contract is a "statewide" contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board.

1.13 Indemnified Basic Claims

"Indemnified Basic Claims" means any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.3.

1.14 Instructions to Offerors

"Instructions to Offerors" is Section 3-A of Part 3 of the Solicitation Documents.

1.15 Order

"Order" means the instrument by which State authorizes Contractor to perform some or all of the Work. Whether the Contract will have one Order or many Orders depends the scope of the Contract and how State will use it. The Special Terms and Conditions provide that information. Any of the following is to be construed as being an "Order":

1. "Release" or "Release Purchase Order" in The State's e-Procurement System;
2. "task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in The State's e-Procurement System; or
3. "purchase order" for buying by Co-Op Buyers, if co-op buying applies.

1.16 The State's e-Procurement System

"The State's e-Procurement System" means State's official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy document *Technical Bulletin No. 020, The State's e-Procurement System – The Official State eProcurement System*.

NOTE (1): Technical Bulletin No. 020 is available online at:

https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations

1.17 State

With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Order.

1.18 State Indemnitees

"State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.

1.19 Subcontractor

"Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "… a person who contracts to perform work or render service to … [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ."The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, a Person carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently.

1.20 Work

"Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of

Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

2.0 Contract Interpretation

2.1 Usage

Where the Contract:

1. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor and all Subcontractors, whether they are first-tier subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subcontractors' respective agents, representatives, and employees" in every instance unless the context plainly requires that it is be a reference only to Contractor as apart from Subcontractors;
2. uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [*Definitions*]. For clarity of intent, any right given to State using "State may" or a like construction denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that: (a) where written "may, at its discretion," the discretion extends to whatever is most advantageous to State; and (b) where written only as "may," the discretion is constrained by what is fair, reasonable, and as accommodating of the respective best interests of both parties as practicable under the circumstances;
3. uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [*Definitions*]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition;
4. uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written "*must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes*" in every instance;
5. uses the term "might" with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and
6. uses the term "will" or the phrases "is to be" or "are to be" with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that "shall" is either unnecessary or irrelevant in that instance.

2.2 Contract Order of Precedence

COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

(a) Contract Amendments;

(b) the final Solicitation Documents, in the order:

(1) Special Terms and Conditions;

(2) Exhibits to the Special Terms and Conditions;

(3) Uniform Terms and Conditions;
(4) Scope of Work;
(5) Exhibits to the Scope of Work;
(6) Pricing Document;
(7) Exhibits to the Pricing Document;
(8) Specifications; and
(9) any other documents referenced or included in the Solicitation;

(c) Orders, in reverse chronological order; and

(d) Accepted Offer.

ATTACHMENTS AND EXHIBITS. For clarity of intent, if an item was an Attachment in the Solicitation Documents or an Offer (either Initial, Revised, Best and Final, or Accepted) and was subsequently made into an Exhibit, or its content was incorporated into one of the other Contract documents, then that Attachment no longer exists contractually as an "Attachment" since it has at that point been made into some other Contract document. In every other case, an Attachment and the Offeror data therein remain part of the Accepted Offer for purposes of precedence and contractual effect.

2.3 Independent Contractor

Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

2.4 Complete Integration

The Contract, including any documents incorporated into the Contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract.

3.0 Contract Administration and Operation

3.1 Term of Contract

The term of the Contract will commence on the date indicated on the Acceptance and continue for five (5) years **unless cancelled, terminated, or permissibly extended**.

3.2 Contract Extensions

State may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the maximum aggregate term of seven (7) years.

3.3 Notices and Correspondence

3.3.1 TO CONTRACTOR. State shall:

(a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding The State's e-Procurement System Vendor Profile; and

(b) address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Accepted Offer, as that address might have been amended during the term of the Contract.

3.3.2 TO STATE. Contractor shall:

(a) address all Contract correspondence other than format notices to the email address indicated in "Contact Instructions" in the State's e-Procurement System Summary for State; and

(b) address any required notices to State to Procurement Officer identified as "Purchaser" in the State's e-Procurement System Summary at the following mailing address:

Arizona Department of Administration
State Procurement Office

100 N 15th Ave., Suite 402
Phoenix, AZ 85007

3.3.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.

3.4 Signing of Contract Amendments

Contractor's counter-signature – or "approval" in The State's e-Procurement System, in the case of an amendment – is not required to give effect if the Contract Amendment only covers either:

1. extension of the term of the Contract within the maximum aggregate term;
2. revision to Procurement Officer appointment or contact information; or
3. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in *(1)*, *(2)*, and *(3)* above, both parties' signature – or "approval" in The State's e-Procurement System, in the case of an Amendment – are required to give it effect.

3.5 Click-Through Terms and Conditions

If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

3.6.1 RETAIN RECORDS. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.

3.6.2 RIGHT TO AUDIT. The retained books and records are subject to audit by State during that period. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.

3.6.3 AUDITING. Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.6.1 and 3.6.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.7 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and for the Work itself.

3.8 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that

might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.

3.9 Ownership of Intellectual Property

3.9.1 RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

(a) "Government Purpose Rights" are:

i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;

ii. the right to release or disclose that work product to third parties for any State government purpose; and

iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.

(b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:

(a) any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product;

(b) any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and

(c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.

3.10 Subcontracts

3.10.1 INITIAL LIST. At the time of Contract execution, Contractor's candidate Subcontractors were identified in Attachment 3-C to the Accepted Offer [*Proposed Subcontractors*]. Agreeing to them being included in the Accepted Offer signified Procurement Officer's advance consent for Contractor to enter into a Subcontract with each candidate, which Contractor shall do as promptly as necessary to ensure its ability to carry out the Work in a timely manner.

3.10.2 ADDITIONAL NAMES. Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on Attachment 3-C at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case *(a)* or *(b)*, Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it.

3.10.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

3.11 Offshore Performance of Certain Work Prohibited

Contractor shall only perform those portions of the Services that directly serve State or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.

3.12 Orders

3.12.1 ORDER SUFFICIENCY. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the code for competitive source selection have been met. An Order issued that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Order.

3.12.2 ORDER TERMS. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions.

3.12.3 ORDERS ARE OBLIGATORY. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.

3.12.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract and (b) the Contract was created in The State's e-Procurement System as something other than a "Master/ Blanket" type.

3.12.5 NO MINIMUMS OR COMMITMENTS. (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.

3.12.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.

3.13 Provisions for Statewide Contracts:
- Co-Op Usage
- Eligible Agencies
- Quarterly Reporting

The Contract is a "statewide" contract for multiple purchases, projects, or assignments, and can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a "statewide" contract hereunder.

The Contract is an indefinite delivery, indefinite quantity (ID/IQ) type of contract; it is to be construed as a "delivery order" sub-type of ID/IQ contract to the extent the Work is Materials, and a "task order" sub-type to the extent the Work is Services.

Co-Op Usage

1. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

   https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative

2. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).
3. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is 1%. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

   https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

4. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

Eligible Agencies – Orders

Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either:

(a) "Approving" the Order electronically in The State's e-Procurement System, which will indicate Contractor's unqualified acceptance of the Order as-issued; or,

(b) "Rejecting" the Order electronically in The State's e-Procurement System, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 (Orders are Obligatory).

Unless and until Contractor has approved the Order in the State's e-Procurement System, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then

Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically In The State's e-Procurement System within three (3) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in The State's e-Procurement System and if it does so the rejection will be void.

Quarterly Usage Reports

Contractor shall submit to State a *Quarterly Usage Report* documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. A *Quarterly Usage Report* shall still be submitted, even if there have been no sales to either Eligible Agencies and/or Co-Op Buyers. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

3.14 Multiple-Use Provisions

Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a "Release Purchase Order" in The State's e-Procurement System. Orders issued by Co-Op Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

1. By choosing some or all of the Materials or Services items covered by the Contract for which a price is established in the Pricing Document, then preparing an Order using those prices (e.g., filling out an order form), and sending it to Contractor.
2. By instructing Contractor to provide a comprehensive proposal of item quantities, combinations, etc., or services hours, personnel, etc., for a defined scope using those established prices as a basis, then validating and negotiating the proposal with Contractor and issuing an Order if and when reaching agreement.
3. As described in *(2)* above but requesting the proposal from both Contractor and other vendors who are contracted within the applicable scope categories and locations, either sequentially or concurrently, then selecting the proposal or proposals combination that is most advantageous to State.
4. As described in *(3)* above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones.

When evaluating the proposals under *(3)* and *(4)* above, State may select based on price (for example, a quoted number of hours times the contracted or improved rate plus a fixed amount for incidentals), by experience and qualifications (for example, having an office nearer the required work location), or whatever combination thereof it determines is most appropriate to the work in question.

3.15 Other Contractors

State may undertake with its own forces or award other contracts to the same or other vendors for additional or related work. In such cases, Contractor shall cooperate fully with State's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, services, or records to State or the other vendors. Contractor shall not commit or permit any act that interferes with the State's or other vendors' performance of their work, provided that, State shall enforce the foregoing section equitably among all its vendors so as not impose an unreasonable burden on any one of them.

3.16 Work on State Premises

3.16.1 COMPLIANCE WITH RULES. Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. For clarity of intent, the foregoing means that if

Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the Contract. Contractor is reminded that violation of the prohibition under A.R.S. § 13-1502 against possession of weapons on State's property by anyone for whom Contractor is responsible is a material breach of contract and grounds for termination for default.

3.16.2 PROTECTION OF GROUNDS AND FACILITIES. Contractor shall deliver or install the Materials and perform the Services without damaging any State grounds or facilities. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*].

4.0 Costs and Payments

4.1 Payments

4.1.1 PAYMENT DEADLINE. State shall make payments in compliance with Arizona Revised Statues Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Pricing Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Pricing Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in The State's e-Procurement System and provided a current IRS Form W-9 to State unless excused by law from providing one.

4.1.2 PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Accepted Offer.

4.2 Applicable Taxes

4.2.1 CONTRACTOR TO PAY ALL TAXES. State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Pricing Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

4.2.2 TAX INDEMNITY. Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

5.0 Contract Changes

5.1 Contract Amendments

The Contract is issued for State under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.

5.2 Assignment and Delegation

5.2.1 IN WHOLE. Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.

5.2.2 IN PART. Subject to paragraph 3.10 [*Subcontracts*] with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.

6.0 Risk and Liability

6.1 Risk of Loss

Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

6.2 Contractor Insurance

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including until any warranty periods under this Contract have expired, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage personal injury and broad form contractual liability coverage

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Damage to Rented Premises	$ 50,000
Each Occurrence	$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	$1,000,000

a. Policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

Workers' Compensation……	Statutory
Each Accident	$1,000,000
Disease – Each Employee	$1,000,000
Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. 23-901, and when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor/Independent Contractor).

4. Technology Errors & Omissions Insurance – *Required as applicable to the services provided*.

Each Claim	$ 2,000,000
Annual Aggregate	$ 2,000,000

a. Such insurance shall cover any, and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract.

b. Coverage shall include copyright infringement, infringement of trade dress, domain name, title or slogan.

c. In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years, beginning at the time work under this Contract is completed.

5. Network Security (Cyber) and Privacy Liability – *Required as applicable to the services provided*.

Each Claim	$ 2,000,000

Annual Aggregate	$ 2,000,000

a. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.

b. In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

c. The policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to vicarious liability of the insured arising out of the activities performed by or on behalf of the Contractor.

d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its department, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 E.
2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice that a policy has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to State Procurement Office.

ACCEPTABILITY OF INSURERS: Contractor's Insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
3. All such certificates required by this Contract shall be sent directly to the Arizona State Procurement Office. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insured under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of self-insurance. If the Contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

6.3 Indemnification

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgement costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnification will survive the termination of the above listed contract with the Contractor.

This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

6.4 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for

liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
3. State may elect to participate in such action at its own expense; and
4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.6 [*Performance in Public Health Emergency*], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

6.6 Third Party Antitrust Violations

Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7.0 Warranties

7.1 Conformity to Requirements

Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.

7.2 Contractor Personnel

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.3 Intellectual Property

Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

7.4 Licenses and Permits

Contractor warrants that it will maintain all licenses required under paragraph 3.7 [*Contractor Licenses*] and all required permits valid and in force.

7.5 Operational Continuity

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.32 [*Assignment and Delegation*] that expressly recognizes the event.

7.6 Performance in Public Health Emergency

Contractor warrants that it will:

1. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and
2. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.5 [*Force Majeure*] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

7.7 Lobbying

7.7.1 PROHIBITION.

(a) Contractor warrants that:

i. it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds

duly realized under the Contract or any value thereafter derived from those proceeds; and

ii. upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.

(b) Contractor shall implement and maintain adequate controls to assure compliance with *(a)* above.

(c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.

7.7.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.8 Survival of Warranties — All representations and warrants made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

8.0 State's Contractual Remedies

8.1 No modifications to uniform terms and conditions section.

9.0 Contract Termination

9.1 No modifications to uniform terms and conditions section.

10.0 Contract Claims

10.1 Claim Resolution — Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.

10.2 Mandatory Arbitration — In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.

11.0 General Provisions for Materials

11.1 Applicability — Article 11 applies to the extent the Work is or includes Materials.

11.2 Off-Contract Materials — Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders, State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.

11.3 Compensation for Late Deliveries — Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them.

11.4 Indicate Shipping Costs on Order — Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one).

11.5	Current Products	Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.
11.6	Maintain Comprehensive Selection	Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if applicable.
11.7	Additional Products	State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of *(b)* typically requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products.
11.8	Discounted Products	If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones.
11.9	Forced Substitutes	Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.
11.10	Recalls	In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on the State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.

11.11 Delivery

11.11.1 PRICING. Unless stated otherwise in the Commercial Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.o.b. Origin, Contractor's Facility" under FAR 52.247-30.

11.11.2 LIABILITY. Unless stated otherwise in the Commercial Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.o.b. Destination, Within Consignee's Premises" under FAR 52.247- 35.

11.11.3 PAYMENT. Unless stated otherwise in the Commercial Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately.

11.12 Delivery Time

Unless stated otherwise in the Commercial Document generally or in the applicable Order particularly, Contractor shall make delivery within 2 (two) business days after receiving each Order.

11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically

1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
2. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
3. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
4. if the Contract is for unrestricted statewide use, then:
   (a) Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;
   (b) If a prospective Co-Op Buyer outside Arizona wishes to order against the Contract, Contractor agrees to negotiate in good faith any fair and reasonable price or lead time adjustments necessary to serve that location if practicable to do so within the scope of its normal business; and,
   (c) if the Commercial Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually.

Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions.

11.15 Acceptance of Materials

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

11.16 Correcting Defects

Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non- conforming delivered or installed Materials.

1. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.
2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.
3. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within thirty (30) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancelations

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

1. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus one (1) additional business day;
2. reimburse Contractor for:
   (a) its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus one (1) additional business day;
   (b) the cost of any obligations it incurred in fulfilling the Order up to the cancellation effective date plus one (1) additional business day that demonstrably cannot be canceled, or that have pre-established cancelation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and,
3. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

11.20 Hazardous Materials

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup.

12.0 General Provisions for Services

12.1	Applicability	Article 12 applies to the extent the Work is or includes Services.
12.2	Comprehensive Services Offering	Contractor shall provide the comprehensive range of services for which a price is established in the Pricing Document for ordering by Eligible Agencies, and Co-Op Buyers if co-op buying applies.
12.3	Additional Services	State at its discretion may modify the scope of the Contract by Contract Amendment to include additional services or service categories that are within the general scope of the ones originally covered by the Contract if it determines that doing so is in its best interest. Once the Contract Amendment is fully executed, Contractor shall then update all applicable price lists and make them available to all affected entities at no additional cost. Either party may make the request to add services to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional services, but State may elect not to add some or all of the services in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include documentation demonstrating that the proposed price for the additional services is both fair and reasonable and comparable to the original ones.
12.4	Off-Contract Services	Contractor shall ensure that the design and/or procedures for the Services ordering method prevents Orders for off-contract or excluded services. Notwithstanding that State might have its own internal administrative rules regarding off contract or excluded service ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders. State may, at its discretion, cancel any such Order without obligation. As used above, "off-contract service" refers to any service not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded service" refers to any service expressly excluded from the scope of the Contract.
12.5	Removal of Personnel	Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, State may at its discretion and without the obligation to demonstrate cause instruct Contractor to remove any of its personnel from State's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace them with other personnel having equivalent qualifications, experience, and capabilities.
12.6	Transitions	During commencement, Contractor shall attend transition meetings with any outgoing vendors to coordinate and ease the transition so that the effect on State's operations is kept to a minimum. State may elect to have outgoing vendors complete some or all of their work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract. Conversely, State anticipates having a continued need for the same materials and services upon expiration or earlier termination of the Contract. Accordingly, Contractor shall work closely with any new (incoming) vendor and State to ensure as smooth and complete a transfer as is practicable. State's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming vendor. As with the incoming transition. State may permit Contractor (outgoing) to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.
12.7	Accuracy of Work	Contractor is responsible for the accuracy of the Services, and shall promptly make all necessary revisions or corrections resulting from errors and omissions on its part without additional compensation. Acceptance by State will not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.
12.8	Requirements at Services Location	Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order (if applicable). Contractor acknowledges that the location might be inside

an industrial building, institutional building, or one of various office types and classes. Additionally, if performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions.

12.9 Services Acceptance

State has the right to make acceptance of Services subject to acceptance criteria. State may apply as acceptance criteria conformity to the Contract, accuracy, completeness, or other indicators of quality or other matter for which the Contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. State will not owe Contractor any payment for un-accepted Services; and State may, at its discretion, withhold or make partial payment for any rejected Services if Contractor is still in the process of re-performing or otherwise curing the grounds for State's rejection.

12.10 Corrective Action Required

Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any material portion of the Services, including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable.

1. Contractor shall provide to State a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or the date when the failure first became apparent, if it was not apparent immediately after occurrence).
2. State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections State instructs and adopt State's recommendations so far as is commercially practicable, provided that State may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment.
3. Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances.

13.0 Data and Information Handling

13.1 Applicability

Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.

13.2 Data Protection and Confidentiality of Information

Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and

2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

13.3 Personally Identifiable Information.

Without limiting the generality of paragraph 13.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-17-12 Preparing for and Responding to a Breach of Personally Identifiable Information", January 3, 2017*; and
2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P* 2180*.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

https://dpcld.defense.gov/Privacy/Authorities-and-Guidance/

NOTE (2): For convenience of reference only, the GSA directive is available at:

https://www.gsa.gov/directive/gsa-rules-of-behavior-for-handling-personally-identifiable-information-(pii)-

13.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;
2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in *(1)* above; and
3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in *(1)* above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.

NOTE: For convenience of reference only, the Privacy Rule is available at:

http://www.hhs.gov/hipaa/for-professionals/privacy/index.html

14.0 Information Technology Work

14.1 Applicability

Article 14 applies to any Invitation for Bids, Request for Proposals, or Request for Quotations for "Information Technology," as defined In A.R.S. § 41-3501(6) 6: " . . . computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects" if and to the extent that the Work is or includes Information Technology.

14.2 Background Checks

Each of Contractor's personnel who is an applicant for an information technology position must undergo the security clearance and background check procedure, which includes fingerprinting, as required by A.R.S § 41-710. Contractor shall obtain and pay for the security clearance and background check. Contractor personnel who will have administrator privileges on a State network must additionally provide identify and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security.

14.3 Information Access

14.3.1 SYSTEM MEASURES. Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting State's proprietary data or confidential information.

14.3.2 INDIVIDUAL MEASURES. Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Contractor is responsible to State for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to perform his or duties. Contractor shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel.

14.3.3 ACCESS CONTROL. Contractor is responsible to State for ensuring that hardware, software, data, information, and that has been provided by State or belongs to or is in the custody of State and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. State may restrict access by Contractor personnel, or instruct Contractor to restrict access their access, if in its determination the requirements of this subparagraph are not being met.

14.4 Pass-Through Indemnity

14.4.1 INDEMNITY FROM THIRD PARTY. For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Contractor may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to State such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with State in enforcing that indemnity. If the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify State Indemnitees to the extent and degree Contractor is required to do by the Uniform Terms and Conditions, then Contractor shall indemnify, defend and hold harmless State Indemnitees to the extent the Pass-Through Indemnity does not.

14.4.2 NOTIFY OF CLAIMS. State shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from State, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that:

(a) State reserves the right to elect to participate in the action at its own expense;

(b) State reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and

(c) State shall in any case cooperate in the defense and any related settlement negotiations.

14.5 Systems and Controls

In consideration for State having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place systems and controls appropriate to ensure that State funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights.

14.6 Redress of Infringement.

14.6.1 REPLACE, LICENSE, OR MODIFY. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Contractor shall at its sole cost and expense and in consultation with State either:

(a) replace any infringing items with non-infringing ones;

(b) obtain for State the right to continue using the infringing items; or

(c) modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification.

14.6.2 CANCELLATION OPTION. In every case under 14.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State:

(a) for any software created for State under the Contract, the amount State paid to Contactor for creating it;

(b) for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and

(c) for Services, the amount paid by State or an amount equal to 12 (twelve) months of charges, whichever is less.

14.6.3. EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee:

(a) modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor;

(b) operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or

(c) combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.

14.7 First Party Liability Limitation

14.7.1 LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of $1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim.

14.7.2 PROVISOS. This paragraph 14.7 limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any:

(a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.3;

(b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.4; or

(c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.

14.7.3 PURCHASE PRICE DETERMINATION. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all Contract Amendments having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.

14.7.4 NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.

14.8 Information Technology Warranty

14.8.1 SPECIFIED DESIGN. Where the Scope of Work for information technology Work provides a detailed design specification or sets out specific performance requirements, Contractor warrants that the Work will provide all functionality material to the intended use stated in the Contract, provided that, the foregoing warranty does not extend to any portions of the Materials that are:

(a) modified or altered by anyone not authorized by Contractor to do so;

(b) maintained in a way inconsistent to any applicable manufacturer recommendations; or

(c) operated in a manner not within its intended use or environment.

14.8.2 COTS SOFTWARE. With respect to Materials provided under the Contract that are commercial-off-the-shelf (COTS) software, Contractor warrants that:

(a) to the extent possible, it will test the software before delivery using commercially available virus detection software conforming to current industry standards;

(b) the COTS software will, to the best of its knowledge, at the time of delivery be free of viruses, backdoors, worms, spyware, malware, and other malicious code that could hamper performance, collect unlawfully any personally identifiable information, or prevent products from performing as required by the Contract; and

(c) it will provide a new or clean install of any COTS software that State has reason to believes contains harmful code.

14.8.3 PAYMENT HAS NO EFFECT. The warranties in this paragraph are not affected by State's inspection, testing, or payment.

14.9 Specific Remedies

Unless expressly stated otherwise elsewhere in the Contract, State's remedy for breach of warranty under paragraph 14.8 includes, at State's discretion, re-performance, repair, replacement, or refund of any amounts paid by State for the nonconforming Work, plus (in every case) Contractor's payment of State's additional, documented, and reasonable costs to procure materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the limitation of liability in paragraph 14.7. If none of the forgoing options can reasonably be effected, or if the use of the materials by State is made impractical by the nonconformance, then State may seek any remedy available to it under law.

14.10 Section 508 Compliance

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 18-131 and § 18-132 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

14.11 Cloud Applications

The following are required for Contractor of any "cloud" solution that hosts State data outside of the State's network, or transmits and/or receives State data.

1. Submit a completed Arizona Baseline Infrastructure Security Controls assessment spreadsheet as found at: https://aset.az.gov/resources/policies-standards-and-procedures, and mitigate or install compensating controls for any issues of concern identified by State. Contractor is required to provide any requested documentation

supporting the review of the assessment. The assessment shall be re-validated on a minimum annual basis.

2. State reserves the right to conduct Penetration tests or hire a third party to conduct penetration tests of the Contractor's application. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all serious flaws discovered by providing an acceptable timeframe to resolve the issue and/or implement a compensating control.
3. Contractor must submit copy of system logs from cloud system to State of AZ security team on a regular basis to be added to the State SIEM (Security Information Event Monitor) or IDS (Intrusion Detection System).

Contractor must employ a government-rated cloud compartment to better protect sensitive or regulated State data.

End of Section 2-C

Section 2-D:

Uniform Terms and Conditions

Version: 9 (7/1/2013)

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1	Attachment	"Attachment" means any item the solicitation requires the Offeror to submit as part of the Offer.
1.2	Contract	"Contract" means the combination of the Solicitation, including the Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
1.3	Contract Amendment	"Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
1.4	Contractor	"Contractor" means any Person who has a Contract with the State.
1.5	Days	"Days" means calendar days unless otherwise specified.
1.6	Exhibit	"Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
1.7	Gratuity	"Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
1.8	Materials	"Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
1.9	Procurement Officer	"Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
1.10	Services	"Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "… the furnishing of labor, time, or effort by [the] [C]ontractor or [S}ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not include employment agreements or collective bargaining agreements." Services includes Building Work and the service aspects of software described in paragraph 1.8.
1.11	State	"State" means the State of Arizona and Department or Agency of the State that executes the Contract.
1.12	State Fiscal Year	"State Fiscal Year" means the period beginning with July 1 and ending June 30.
1.13	Subcontract	"Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

2.0 Contract Interpretation

2.1	Arizona Law	The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised

Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1. Special Terms and Conditions;

2.3.2. Uniform Terms and Conditions;

2.3.3. Statement or Scope of Work;

2.3.4. Specifications;

2.3.5. Attachments;

2.3.6. Exhibits;

2.3.7. Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3.0 Contract Administration and Operation

3.1 Records

Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 Non-Discrimination

The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit

Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise

stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6	Advertising, Publishing and Promotion of Contract	The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
3.7	Property of the State	Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
3.8	Ownership of Intellectual Property	Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
3.9	Federal Immigration and Nationality Act	The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.
3.10	E-Verify Requirements	In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
3.11	Offshore Performance of Work Prohibited.	Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4.0 Costs and Payments

4.1	Payments	Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to, hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law

4.4 Availability of Funds for the Next State fiscal year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the Current State fiscal year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the Contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements

5.0 Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6.0 Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be

indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall **not** include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7.0 Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Compliance with Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6 Survival of Rights and Obligations after Contract Expiration or Termination

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8.0 State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3	Non-exclusive Remedies	The rights and the remedies of the State under this Contract are not exclusive.
8.4	Nonconforming Tender	Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
8.5	Right of Offset	The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9.0 Contract Termination

9.1	Cancellation for Conflict of Interests	Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
9.2	Gratuities	The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
9.3	Suspension or Debarment	The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.
9.4	Termination for Convenience	The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
9.5	Termination for Default	9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination — The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10.0 Contract Claims

10.1 Contract Claims — All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11.0 Arbitration

11.1 Arbitration — The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12.0 Comments Welcome

12.1 Comments Welcome — The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

End of Section 2-D

End of Part 2

Table of Contents

Attachment 5-B: Conformance Statements 1

Attachment 5-B: Conformance Statements

(WHEN TAKING EXCEPTIONS, ATTACHMENT 5-B AND SUPPLEMENTS MUST BE UPLOADED AS A SEPARATE WORD DOC. FILE TITLED "ATTACHMENT 5-B".)

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.
READ PARAGRAPH **ERROR! REFERENCE SOURCE NOT FOUND.** OF THE INSTRUCTIONS TO OFFERORS BEFORE TAKING ANY EXCEPTIONS – TAKING EXCEPTIONS CAN BE GROUNDS FOR STATE REJECTING OR DOWN-GRADING YOUR OFFER IN EVALUATION.

CONFORMANCE TO THE INSTRUCTIONS:
(PART 3 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to "YES":

● YES – Offeror acknowledges that it has read and understands the Instructions to Offerors in Section 3-A of the Solicitation Documents and attests that its Offer complies.

○ NO – Offeror acknowledges that it has read and understands the Instructions to Offerors in Section 3-A of the Solicitation Documents, and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 1**.

CONFORMANCE TO THE SCOPE OF WORK AND PRICING DOCUMENT:
(PART 2 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to "YES":

○ YES – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both.

● NO – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 2**.

CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS:
(PART 2 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to "YES":

○ YES – Offeror acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices, in Part 2 of the Solicitation Documents and attests that its Offer complies with both.

● NO – Offeror acknowledges that it has read and understand the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices in Part 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 3**.

ATTACHMENT 5-B Supplement No. 1:

Exceptions to Instructions

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	RFP Language (Copy and Paste from Solicitation)
Section 3-A: Instructions to Offerors		
None.	None. None.	None.

AT&T Corp.

Company Name

Signature of Person Authorized to Sign

ATTACHMENT 5-B Supplement No. 2:

Exceptions to Scope of Work and Pricing

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	RFP Language (Copy and Paste from Solicitation)
Section 2-A: Scope of Work		
None.	None. None.	None.
Section 2-B: Pricing Document		
2.0 Pricing	**States Response: Exception Rejected. 1.1 is necessary to support the pricing provided for the vendor's proposal for the term of this contract. Open to revisions (srike out 1.1.1) but will not Delete this section.** **2/23/21 State (Steven J.) has agreed to the following Language:1.1 CONTRACTOR'S BEST PRICING. Supplier warrants that, for the term of the Contract, the prices and discounts set out in Attachments/Exhibits titled ATTACHMENT 4_PRICING_BPM002617_NG911ESInet_NGCS_CHE.XLSX to this Pricing Document, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent services, items of equipment and materials, within the State of Arizona under similar terms and conditions.** **~~1.1.1 That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances.~~** **1.1.2 If Contractor's Best Pricing under Section 1.1 above is for equivalent services, items of equipment and materials is better than the Contract Pricing, then Contractor agrees to**	1.1 CONTRACTOR'S BEST PRICING. Supplier warrants that, for the term of the Contract, the prices and discounts set out in Attachments/Exhibits titled ATTACHMENT 4_PRICING_BPM002617_NG911ESInet_NGCS_CHE.XLSX to this Pricing Document, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which Contractor sells equivalent services, items of equipment and materials. 1.1.1 That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances. 1.1.2 If Contractor's Best Pricing for equivalent services, items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best

	adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing.	Pricing was first better than the Contract Pricing. 1.1.3 For clarification of intent, that date is intended to be the date when the difference first occurred, which might have been before the difference was first identified. If it was before, then Supplier agrees to charge at less than the Contract Pricing until the extended difference that would have been realized (i.e., if the Contractor's Best Pricing had been applied when it should have been) has been settled
4.0 Invoicing	Exception: AT&T would delete this Section Rationale: AT&T invoices are produced via automated systems. The form and/or process cannot accommodate specific requirements of any individual customer, nor can it be signed by an authorized representative **STATE RESPONSE: Exception Accepted- understand this cannot be signed by authroized representative, but suporting information and documentation must be provided**	4.5 SUBMITTING INVOICES. Contractor shall submit an invoice to the ordering Eligible Agency or Co Op Buyer using the form and/or process provided or required by the ordering Eligible Entity/Customer (Eligible Agency or Co-Op Buyer). Every invoice must be signed by Contractor's authorized representative and accompanied by all supporting information and documentation required by the Contract and applicable laws.

AT&T Corp.	
Company Name	Signature of Person Authorized to Sign

ATTACHMENT 5-B Supplement No. 3:

Exceptions to Contract Terms & Conditions

Article/ Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	RFP Language (Copy and Paste from Solicitation)
Section 2-C: Special Terms & Conditions		
3.9 Ownership of Intellectual Property	RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State. (a) "Government Purpose Rights" are: i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State. (a) "Government Purpose Rights" are: i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party; ii. the right to release or disclose that work product to third parties for any State government purpose; and iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose;	RIGHTS IN WORK PRODUCT. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State. (a) "Government Purpose Rights" are: i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party; ii. the right to release or disclose that work product to third parties for any State government purpose; and iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments. (b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so. 3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or

	such recipients being understood to include the federal government, the governments of other states, and various local governments. (b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so. 3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party. 3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials and all intellectual property developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that: (a) any derivative works of such intellectual property and pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product; (b) any elements of derivative work of such intellectual property and pre-existing material that was not created pursuant to the Contract are not part of that work product; and (c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such intellectual property and pre-existing materials. 3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder. Raitionale: AT&T is very protective of its intellectual property. These minimal edits are designed to ensure that we retain ownership of our IP. State Response: Approved minor edits and additional language	techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party. 3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that: (a) any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product; (b) any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and (c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials. 3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.
x	Exception: 4.2.1 ADDITIONAL CHARGES AND ~~CONTRACTOR TO PAY ALL~~ TAXES. Sales to the State of Arizona are ~~is~~ subject to all applicable state and local transaction privilege taxes (TPT), unless otherwise	CONTRACTOR TO PAY ALL TAXES. State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit.

	exempt ~~Arizona~~ TPT. Therefore, ~~Arizona~~ TPT applies to all sales under the Contract unless otherwise exempt and ~~Arizona TPT~~ it is Contractor's responsibility (as seller) to remit TPT on such sales to the appropriate taxing authority. Contractor's failure to collect ~~Arizona~~ TPT ~~or any other applicable sales or use taxes~~ from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any legal obligation to remit ~~sales~~ TPT ~~or use taxes~~ that ~~are~~ is due under the Contract or laws. Unless stated otherwise in the Pricing Document, all prices therein are exclusive of, and the buyer will pay, all current and future taxes (excluding those on Contractor's net income), surcharges, recovery fees, custom clearances, duties, levies, shipping charges, and other similar charges (and any associated interest and penalties resulting from the buyer's failure to timely pay such taxes or similar charges) relating to the sale, transfer of ownership, installation, license, use or provision of services, except to the extent the buyer provides satisfactory proof of a valid tax exemption prior to the delivery of the product or service. To the extent a buyer is required by law to withhold or deduct any applicable taxes from payments due to Contractor, the buyer will use reasonable commercial efforts to minimize any such taxes to the extent allowed by law or treaty, and the buyer will furnish Contractor with such evidence as may be required by relevant taxing authorities to establish that such tax has been paid so that Contractor may claim any applicable credit ~~include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor~~ shall pay all federal, state, and local taxes applicable to its operations and personnel. 4.2.2 TAX INDEMNITY. Contractor shall pay all ~~hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to~~ federal, state, and local taxes applicable to its operations, including ~~authorities with respect to the Work and the Contract, as well any related costs; the foregoing expressly includes~~ Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.Rationale: As written, this section would not allow AT&T to make a recovery of TPT outside of the prices listed in the pricing document. AT&T would not want to waive our right to collect the tax from the customer. We also prefer our promise to pay all taxes we owe over an actual indemnity to the state.	Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Pricing Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

	State Response: Exception Accepted - language edits and struck out language.	
6.2 Contractor Insurance	**Exception:** Contractor shall and subcontractors shall endeavor to carry ~~procure and maintain~~ **[REJECTED]** until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The insurance requirements ~~herein are minimum requirements for this Contract and~~ in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance. ~~MINIMUM~~ **SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability ~~not less than those~~ stated below. 1. Commercial General Liability (CGL) – ISO form CG 00 01 (or its equivalent) **[REJECTED]** Occurrence Form Policy shall include bodily injury, property damage personal injury and ~~broad form~~ contractual liability coverage General Aggregate $2,000,000 Products – Completed Operations Aggregate $1,000,000 Personal and Advertising Injury $1,000,000 Damage to Rented Premises $ 50,000 Each Occurrence $1,000,000 a. The required policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect ~~to liability arising out of the activities performed by or on behalf of the Contractor~~ this Agreement. **[REJECTED]**	Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including until any warranty periods under this Contract have expired, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below. 1. Commercial General Liability (CGL) – Occurrence Form Policy shall include bodily injury, property damage personal injury and broad form contractual liability coverage General Aggregate $2,000,000 Products – Completed Operations Aggregate $1,000,000 Personal and Advertising Injury $1,000,000 Damage to Rented Premises $ 50,000 Each Occurrence $1,000,000 a. The policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards,

	b. The required Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. 2. Business Automobile Liability Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract. Combined Single Limit (CSL) $1,000,000 per accident **[REJECTED]** a. The required Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees as additional insureds with respect to ~~liability arising out of the activities performed by, or on behalf of, the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor~~. this Agreement. **[REJECTED]** b. The required Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. 3. Worker's Compensation and Employers' Liability Workers' Compensation Statutory Each Accident $1,000,000 Disease – Each Employee $1,000,000 Disease – Policy Limit $1,000,000 a. To the extent allowed by law the required **[REJECTED]** Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees ~~for losses arising from work performed by or on behalf of the Contractor~~ as respects this Agreement. **[REJECTED]** b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. 23-901, and when such contractor or subcontractor executes the appropriate waiver form (Sole	commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. 2. Business Automobile Liability Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract. Combined Single Limit (CSL) $1,000,000 a. Policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor. b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. 3. Worker's Compensation and Employers' Liability Workers' Compensation Statutory Each Accident $1,000,000 Disease – Each Employee $1,000,000 Disease – Policy Limit $1,000,000 a. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards,

	Proprietor/Independent Contractor). 4. Technology Errors & Omissions Insurance – Required as applicable to the services provided. Each Claim $ 2,000,000 Annual Aggregate $ 2,000,000 a. Such insurance shall cover ~~any, and all errors,~~ omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract. b. ~~Coverage shall include copyright infringement, infringement of trade dress, domain name, title or slogan~~. INTENTIONALLY OMITTED **[REJECTED]** c. In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years, beginning at the time work under this Contract is completed. 5. Network Security (Cyber) and Privacy Liability – Coverage under Contractor's Technical Errors & Omissions Insurance Required as applicable to the services provided. Each Claim $ 2,000,000 Annual Aggregate $ 2,000,000 a. Such insurance shall include, ~~but not be limited to~~, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, where insurable by **law,[ACCEPTED]** ~~cyber extortion,~~ **[REJECTED]** computer program and electronic data restoration expenses coverage (data asset protection), ~~network business interruption~~, **[REJECTED]** computer fraud coverage, ~~and funds transfer loss.~~ **~~[REJECTED]~~** b. In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous	commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. 23-901, and when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor/Independent Contractor). 4. Technology Errors & Omissions Insurance – Required as applicable to the services provided. Each Claim $ 2,000,000 Annual Aggregate $ 2,000,000 a. Such insurance shall cover any, and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract. b. Coverage shall include copyright infringement, infringement of trade dress, domain name, title or slogan. c. In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years, beginning at the time work under this Contract is completed. 5. Network Security (Cyber) and Privacy Liability – Required as applicable to the services provided. Each Claim $ 2,000,000 Annual Aggregate $ 2,000,000 a. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties,

	coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed. c. ~~The policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to vicarious liability of the insured arising out of the activities performed by or on behalf of the Contractor~~ INTENTIONALLY OMITTED. **[REJECTED]** d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its department, agencies, boards, commissions, universities, officers, officials, agents, and employees ~~for losses arising from work performed by or on behalf of the Contractor~~ under this Agreement. **[REJECTED]** **ADDITIONAL INSURANCE REQUIREMENTS**: The policies shall include, or be endorsed to include, the following provisions: 1. The Contractor's policies, as applicable, ~~shall stipulate that the insurance afforded the Contractor~~ **[REJECTED]** shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 E. 2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract. **NOTICE OF CANCELLATION:** ~~Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice that a policy has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to State Procurement Office.~~ Contractor shall provide the State of Arizona at least thirty (30) days prior written notice of cancellation or nonrenewal of any required coverage that is not replaced **ACCEPTABILITY OF INSURERS:** Contractor's Insurance	cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss. b. In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed. c. The policy shall be endorsed, as required by this written agreement, to name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to vicarious liability of the insured arising out of the activities performed by or on behalf of the Contractor. d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its department, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions: 1. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 E. 2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract. NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be

	shall be placed with companies ~~licensed~~ eligible in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. The certificate(s) shall be completed and signed by the insured's broker ~~An authorized representative of the insurer shall sign the certificates~~ by the insured to bind coverage on its behalf. 1. All such certificates of insurance and required policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement. 2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract. 3. All such certificates required by this Contract shall be sent directly to the Arizona State Procurement Office. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. ~~The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.~~ ~~**[REJECTED, WILL DISCUSS]**~~ **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insured under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.	suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice that a policy has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to State Procurement Office. ACCEPTABILITY OF INSURERS: Contractor's Insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency. VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates. 1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement. 2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract. 3. All such certificates required by this Contract shall be sent directly to the Arizona State Procurement Office. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The

	APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverage's, or endorsements ~~throughout the~~ once during the term ~~life~~ of this contract with sixty (60) days prior written notice to the Contractor, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action. **EXCEPTIONS**: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply and the Contractor may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. **[REJECTED]** Such public entity shall provide a Certificate of self- insurance. If the Contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply. **Rationale:** Edited to reflect AT&T insurance coverages and policies. AT&T requests that our Risk Manager discuss these topics with the State's Risk Manager. **States Response: SEE COMMENTS IN [BRACKETS] IN COLUMN B. ALL CHANGED NOT MARKED "REJECTED" ARE ACCEPTED.**	State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insured under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage. APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action. EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of self-insurance. If the Contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply
6.3 Indemnification	**Exception:** To the fullest extent permitted by law and subject to and without waiver of all protections granted by law to the provider of 9-1-1 services, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury ~~or personal injury~~ (including death), or loss or damage to tangible real or personal ~~or intangible~~ property caused, or alleged to be caused, in whole or in part, by the gross negligence ~~negligent~~ or willful acts or	To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents,

	omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgement costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnification will survive the termination of the above listed contract with the Contractor. This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona **Rationale:** AT&T has edited this to reflect protections afford to us. **States Response and AT&T agreement on 2/19/21:** **Insertion of "and subject to and without waiver of all protections granted by law to the provider of 9-1-1 services," is ACCEPTED.** **Deletion of "or personal injury" is REJECTED and should be stricken.** **Addition of "real or personal" is ACCEPTED.** **Deletion of "or intangible" is ACCEPTED.** **Addition of "gross negligence" is REJECTED and should be stricken.** **Deletion of "negligent" is REJECTED**.	employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgement costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona. This indemnification will survive the termination of the above listed contract with the Contractor. This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.
6.4 **Patent and Copyright Indemnification**	**Exception**: CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the	CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark,

	Services. The obligation to indemnify shall not apply where the claimed infringement arises out of or results from: (a) the customer or a user's content; (b) modifications to the Service by the customer or a third party not working on behalf of Contractor, or combinations of the Service with any non-Contractor services or products by customer or others outside of Contractor's control; (c) Contractor's adherence to customer's written requirements; or (d) use of a Service in violation of this Agreement. With respect to the defense and payment of claims under this subparagraph: 1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph; 2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise; 3. State may elect to participate in such action at its own expense; and 4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations. If Contractor is a public agency, this paragraph 6.4 does not apply. **Rationale:** AT&T has edited this section to protect itself against third party claims caused by the customer or user. **States Response:: Consider the following modification to the added language: The obligation to indemnify shall not apply where the claimed infringement arises out of or results from: (a) the customer or a user's content; (b) modifications to the Service by the customer or a third party not under Contractor's control working on behalf of Contractor, or combinations of the Service with any non-Contractor services or products by customer or others outside of Contractor's control; (c) Contractor's adherence to customer's written requirements; or (d) use of a Service in violation of this Agreement.** **RM 2/19/21: State accepts Contractor's language in Column B.**	copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph: 1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph; 2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise; 3. State may elect to participate in such action at its own expense; and 4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations. If Contractor is a public agency, this paragraph 6.4 does not apply.

7.3 Intellectual Property	Exception: AT&T'S RESPONSE TO RFP SECTION 2-C, §7.3: AT&T does not make this warranty but will agree to negotiate an IP indemnification provision to the agreement, with no damage cap. Rationale: Edited to reflect warranties that AT&T is willing to provide. **State Response: Agreement to the vendors rationale and will accept their offer to negotiate an IP indemnification provision to the agreement, with no damage cap**	Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
14.7 First Party Liability Limitation	Exception:14.7.1 LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited, on an aggregate basis during any twelve (12) month period, to the greater of $1,000,000 (one million dollars) or 2 (two) ~~3 (three)~~ times the total net charges under the Contract in the twelve (12) month time period during which the claim arose.~~purchase price of the specific Materials or Services giving rise to the claim~~ PROVISOS. This paragraph 14.7 limits liability for first party direct~~, indirect, incidental, special, punitive, and consequential~~ damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any: (a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.3; (b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.4; or (c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.(d) purchasing entity's responsibility for the payment of all properly due charges under this Contract.14.7.3 EXCEPT AS SET FORTH IN SECTIONS 6 OR IN THE CASE OF A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS.~~14.7.3 PURCHASE PRICE DETERMINATION. If the Contract is for a single~~	LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of $1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim. 14.7.2 PROVISOS. This paragraph 14.7 limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any: (a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.3; (b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.4; or (c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies. 14.7.3 PURCHASE PRICE DETERMINATION. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all Contract Amendments having an effect on the

	~~agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all Contract Amendments having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.~~14.7.4 NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not. A. Disclaimer of Liability. CONTRACTOR WILL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, DATA, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY PURCHASING ENTITY OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR ANY SERVICE ERROR OR INTERRUPTION, INCLUDING INTERRUPTIONS OR ERRORS IN ROUTING OR COMPLETING ANY 911 OR OTHER EMERGENCY RESPONSE CALLS OR ANY OTHER CALLS OR TRANSMISSIONS (EXCEPT FOR CREDITS EXPLICITLY SET FORTH IN THIS AGREEMENT); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF PURCHASING ENTITY'S (OR ITS AFFILIATES', USERS' OR THIRD PARTIES') APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORKS OR SYSTEMS. Rationale: AT&T would edit this section as indicated and would add the Disclaimer of Liabilities as set forth above. **States Response and AT&T's on agreement 2/19/21:** **The following should be stricken from 14.7.1: "Except in the case of a party's gross negligence or willful misconduct, neither party will be liable to the other party for any indirect, incidental, consequential, punitive, reliance or special damages, including without limitation damages for lost profits, advantage, savings, or revenues or for increased cost of operations." (Note: redundant - identical language appears in 14.7.3)**	aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order. 14.7.4 NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.

	The word "or" before 14.7.2(c) should be moved to the end of 14.7.2(c). **Final section "A. Disclaimer of Liability" is REJECTED and should be stricken.** **All other changes ACCEPTED.**	
Article/ Paragraph or Appendix Reference	**Proposed Changes / Alternate Language**	**RFP Language (Copy and Paste from Solicitation)**
Section 2-D: Uniform Terms & Conditions		
3.7 **Property of the State**	Exception: Property of the State. Any ~~materials, including~~ copies of reports ("Reports"), ~~computer programs and other deliverables,~~created under this Contract are the sole property of the State. The Contractor ~~is not entitled to a patent or~~ grants to the State under Contractor's copyrights on those materials the perpetual, non-exclusive, personal and non-transferable right to reproduce and modify the Reports for State's own internal purposes. For avoidance of doubt, "internal purposes" exclude public distribution, except as required by law, or resale to third parties and revenue generation purposes ~~and may not transfer the patent or copyright to anyone else~~. The Contractor shall not use or release these ~~materials~~ reports for purposes unrelated to this Agreement without the prior written consent of the State. Rationale: Edited to reflect AT&T policies regarding ownership of reports. State Response: State approves that added language for 3.7	Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
3.8 **Ownership of Intellectual Property**	Exception:Subject to Contractor's ownership of intellectual property and pre-existing materials under Section 3.9.3 (Pre-Existing Material), any ~~Any~~ and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets, created or conceived and delivered to the State by Contractor pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona	Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire

	requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Notwithstanding that this contract vests ownership of the Intellectual Property in the State, the Contractor and State will cooperate to execute any and all additional document(s) in the event doing so becomes necessary to further assure ownership of the Intellectual Property vests in the State. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract. Rationale: AT&T is very protective of its intellectual property. These minimal edits are designed to ensure that we retain ownership of our IP.. **State Response: State will approve to the added language but does not agree to having the struck out language removed. The state will be notified within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s) that is relevant to the contract.** **Henry on 02/16: AT&T agrees to withdraw strikethrough.**	right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

AT&T Corp.

Company Name	Signature of Person Authorized to Sign

End of Attachment 5-B

9. L.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Bryce Doty, Real Estate Manager
Date:	06/23/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Lease Renewal Amendments: Lease No: GS-09P-LAZ94446 for Building 3 and GS-09P-LAZ03408 for Buildings 4 and 5 of the United States Geological Survey (USGS) facility located at 2255 North Gemini Drive.

STAFF RECOMMENDED ACTION:

1. Approve the lease renewal amendments to extend the term of the leases from 12/31/2023 to 12/31/2028 with an option to extend for an additional 5 year term until 12/31/2033.
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The City owns the USGS campus located at 2255 N. Gemini Drive. The current leases for Buildings 3, 4, and 5 at the USGS campus expire on December 31, 2023.

City staff is recommending that the City Council approve lease extensions for a five-year term, expiring 12/31/2028, with the option to renew for an additional five-year through through 12/31/2033. The GSA is offering a firm four-year commitment through 12/31/2027.

The City needs to make repairs and improvements to the Buildings 3, 4 and 5, which were built in the 1970s, in order to provide the level of service expected from these leases. The City is preparing capital renewal projects based on an independent needs assessment estimated at $3,000,000.

To offset the capital renewal expenditures and to bring the leases in line with market rent, the lease rates reflected in the extension are improved compared to the current terms. Notably, Buildings 4 and 5 are both leased under the same lease, but they are fundamentally different use types. Building 5 is warehouse and Building 4 is office. The new rate breaks out the square footage of both and updates the office square feet with the rate used for Building 3 ($23.20/sqft) and keeps the warehouse square feet in line with Costar comps in the area, ($12.00/sqft). This improvement will see an additional $1,294,636.00 in lease revenue over the life of the initial five year term, assuming 3% consumer price index adjustments to operating costs. A 5% increase to the shell rate for the additional five-year term, should it be exercised was added as consideration for the extension.

Financial Impact:

Buildings 4 and 5 Lease Rate
Annual Shell Rent:$402,635.26
Operating Cost Rent: $263,686.56
Total Annual Rent: $666,321.82

Building 3 Lease Rate
Annual Shell Rent:$226,029.32
Operating Cost Rent: $137,106.41
Total Annual Rent: $363,135.73

Projected cumulative total rent for both leases over 1st extension: $5,271,187.21
Projected cumulative total rent for both leases with existing rates: $3,976,550.91
Difference: $1,294,636.30

Projected cumulative total rent for both leases over 2nd extension: $5,695,419.07
Projected cumulative total rent for both leases with existing rates: $4,315,464.53
Difference: $1,379,954.54

The City has reserve funds available for improvements to the buildings being leased under the lease extensions.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Council Goal || Economic Development

- Grow and strengthen a more equitable and resilient economy.

Council Goal || Climate Change

- Take meaningful climate change action.

Regional Plan Goal || Environmental Planning & Conservation

- Reduce Greenhouse Gas Emissions (E&C.2)

Regional Plan Goal || Energy

- Increase Energy Efficiency (E.1)

Regional Plan Goal || Community Character

- Support and promote art, science, and education resources for all to experience

Priority Based Budget Community Priorities and Objectives || Environmental Stewardship

- Actively manage and protect all environmental and natural resources
- Provide environmental community outreach, education, and volunteer opportunities

Priority Based Budget Community Priorities and Objectives || Livable Community

- Support diverse employment opportunities that provide residents with a living wage

Priority Based Budget Community Priorities and Objectives || Robust Resilient Economy

- Attract employers that provide high quality jobs and have a low community impact

Has There Been Previous Council Decision on This:

On September 15, 2020, Council approved a new build-to suit lease with GSA in the amount of $1,894,137.78 annually and for a duration of 10 years firm; option for 20 years. This lease was not executed as there was a need to update some of the design standards and construction costs.

On November 16, 2021, Council approved the decision not to execute a build-to-suit lease with GSA, because construction costs for the build-to-suit facilities had soared by approximately 70%. Instead, the direction was given to work with the GSA on extending the existing leases for up to 10 years, giving the GSA the opportunity to issue a new competitive solicitation for USGS facilities.

Options and Alternatives:

The City has the option of not renewing the leases, however, this is not recommended. The USGS is an important part of the Flagstaff business and scientific community.

Attachments: Building 3 Lease Extension
Building 4 and 5 Lease Extension

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE **LEASE AMENDMENT**	LEASE AMENDMENT No. 12 TO LEASE NO. GS-09P-LAZ94446
ADDRESS OF PREMISES: 2256 N. Gemini Dr. Bldg. 3 2255 N. Gemini Dr. Flagstaff, AZ 86001	PDN Number: N/A

THIS AMENDMENT is made and entered into between:

City of Flagstaff

whose address is: 211 W. Aspen Ave.
Flagstaff, AZ 86001

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the Lease to add **two renewal options and exercise the first renewal option.**

Now, therefore, the parties for the consideration hereinafter mentioned agree that the Lease is amended, effective upon execution by the Government, as follows:

A. This Lease is renewed for a term of 60 Months, 48 months firm, January 01, 2024 to December 31, 2028 (the “First Renewal Term”).

This Lease Amendment contains 5 pages.

All other terms and conditions of the lease shall remain in force and effect.
IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

Signature: _____

Name: _____

Title: _____

Entity: _____

Date: _____

FOR THE GOVERNMENT:

Signature: _____

Name: _____

Title: Lease Contracting Officer
GSA, Public Buildings Service

Date: _____

WITNESSED FOR THE LESSOR BY:

Signature: _____
Name: _____
Title: _____
Date: _____

The Government shall pay the Lessor annual rent during the First Renewal Term, payable in monthly installments in arrears, at the following rates:

Rent Type	Annual Amount
Shell Rent	$226,029.32
Operating Cost Rent*	$137,106.41
Total Annual Rent	$363,135.73

*Operating cost rent above reflects accrued CPI operating cost adjustments as of this lease amendment execution date. Operating cost adjustments will continue on their established schedule.

Termination. The Government may terminate this lease in whole or in part after December 31, 2027 during the Renewal Term by giving at least 60 days' prior notice in writing to the Lessor. No rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

B. This Lease may be renewed at the option of the Government for a term of **5 YEARS** from **January 1, 2029 to December 31, 2033.** (the "Second Renewal Term") at the following rental rate(s):

Rent Type	Annual Amount
Shell Rent	$247,800.86
Operating Cost Rent*	*$137,106.41
Total Rent	$384,907.27

*Operating rent above reflects accrued CPI operating cost adjustments as of this lease amendment execution date. Operating cost adjustments will continue on their established schedule.

provided notice is given to the Lessor at least **60** days before the end of the original Lease term or any extension thereof; all other terms and conditions of this Lease, as same may have been amended, shall remain in full force and effect during any renewal term.

{If applicable} Termination. The Government may terminate this lease in whole or in part after December 31, 2032 during the Renewal Term by giving at least 60 days' prior notice in writing to the Lessor. No rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

C. The following clause is added to the Lease:

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

INITIALS: _____ & _____
LESSOR GOV'T

Covered telecommunications equipment or services means–

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means–

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (*e.g.*, voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

INITIALS: _____ & _____
LESSOR GOV'T

(b) *Prohibition*.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at https://dibnet.dod.mil. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at https://dibnet.dod.mil.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

INITIALS: _____ & _____
LESSOR GOV'T

52.204-27 Prohibition on a ByteDance Covered Application (June 2023)

(a) *Definitions.* As used in this clause—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition*. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, "No TikTok on Government Devices" Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor's employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

D. The following clause is added to the Lease. Full text versions are available at https://www.acquisition.gov/?q=browsefar.

52.222-55 Minimum Wages for Contractor Workers Under Executive Order 14026

INITIALS: _____ & _____
LESSOR GOV'T

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE **LEASE AMENDMENT**	LEASE AMENDMENT No. 3 TO LEASE NO. GS-09P-LAZ03408
ADDRESS OF PREMISES: BLDGS. 4 & 5 2255 N. Gemini Dr. Flagstaff, AZ 86001	PDN Number: N/A

THIS AMENDMENT is made and entered into between:

City of Flagstaff

whose address is: 211 W. Aspen Ave.
Flagstaff, AZ 86001

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the Lease to add **two renewal options and exercise the first renewal option.**

Now, therefore, the parties for the consideration hereinafter mentioned agree that the Lease is amended, effective upon execution by the Government, as follows:

A. This Lease is renewed for a term of 60 Months, 48 months firm, January 01, 2024 to December 31, 2028 (the "First Renewal Term").

This Lease Amendment contains 5 pages.

All other terms and conditions of the lease shall remain in force and effect.
IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

Signature: _____

Name: _____

Title: _____

Entity: _____

Date: _____

FOR THE GOVERNMENT:

Signature: _____

Name: _____

Title: Lease Contracting Officer
GSA, Public Buildings Service

Date: _____

WITNESSED FOR THE LESSOR BY:

Signature: _____
Name: _____
Title: _____
Date: _____

The Government shall pay the Lessor annual rent during the First Renewal Term, payable in monthly installments in arrears, at the following rates:

Rent Type	Annual Amount
Shell Rent	$402,635.26
Operating Cost Rent*	$263,686.56
Total Annual Rent	$666,321.82

*Operating cost rent above reflects accrued CPI operating cost adjustments as of this lease amendment execution date. Operating cost adjustments will continue on their established schedule.

Termination. The Government may terminate this lease in whole or in part after December 31, 2027 during the Renewal Term by giving at least 60 days' prior notice in writing to the Lessor. No rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

B. This Lease may be renewed at the option of the Government for a term of 5 **YEARS** from **January 1, 2029 to December 31, 2033.** (the "Second Renewal Term") at the following rental rate(s):

Rent Type	Annual Amount
Shell Rent	$483,206.57
Operating Cost Rent*	*$263,686.56
Total Rent	$746,893.13

*Operating rent above reflects accrued CPI operating cost adjustments as of this lease amendment execution date. Operating cost adjustments will continue on their established schedule.

provided notice is given to the Lessor at least 60 days before the end of the original Lease term or any extension thereof; all other terms and conditions of this Lease, as same may have been amended, shall remain in full force and effect during any renewal term.

Termination. The Government may terminate this lease in whole or in part after December 31, 2032 during the Renewal Term by giving at least 60 days' prior notice in writing to the Lessor. No rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

C. The following clauses are added to the Lease:

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

INITIALS: _____ & _____
LESSOR GOV'T

Covered telecommunications equipment or services means–

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means–

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (*e.g.*, voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

INITIALS: _____ & _____
LESSOR GOV'T

(b) *Prohibition*.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at https://dibnet.dod.mil. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at https://dibnet.dod.mil.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

INITIALS: _____ & _____
LESSOR GOV'T

52.204-27 Prohibition on a ByteDance Covered Application (June 2023)

(a) *Definitions.* As used in this clause—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition*. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

INITIALS: _____ & _____
LESSOR GOV’T

9. M.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Paul Mood, City Engineer
Co-Submitter:	Dan Folke, Community Development Director
Date:	06/28/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Approve a Cooperative Purchase Contract with Goodmans Interior Structures in the amount of $146,397.72, in addition to taxes and other charges, for the purchase and installation of new cubicles and office furniture for the Community Development and City Engineering Divisions.

STAFF RECOMMENDED ACTION:

1. Approve a Cooperative Purchase Contract with Goodmans Interior Structures in the amount of $146,397.72, in addition to taxes and other charges, for the purchase and installation of new cubicles and office furniture; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The City Engineering and Community Development Divisions have budgeted for the purchase and installation of new cubicles and office furniture for FY2023-24 due to the age, condition, and insufficient number of cubicles for authorized staff. There are currently 16 cubicles and there will be 20 cubicles when the project is completed with a standard cubicle size of approximately 8’-1” x 7’-7”.

The installation of the cubicles is anticipated to be completed during the summer 2023 months and will be coordinated with the Facilities Section which will be also be replacing the carpeting in the Community Development and Engineering area in City Hall.

Financial Impact:

The Cooperative Purchase Contract with Goodmans Interior Structures to purchase and install the cubicles and office furniture has been budgeted for in FY2023-24 and is funded with general operating funds in account 001-10-102-0310-4-4224 and 001-05-102-0310-4-4224 for a total budget of $150,000. The cost will be split 50/50 between the City Engineering and Community Development Divisions.

Policy Impact:

N/A

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives
N/A

Carbon Neutrality Plan
N/A

Regional Plan
N/A

Has There Been Previous Council Decision on This:
N/A

Background/History:
The State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. ADSPO18-00008152 that resulted in Contract No. ADSPO18-211721 with Goodman's Interior Structure. The City of Flagstaff Procurement department with utilized this State contract in a piggyback to receive the most competitive pricing.

Attachments: CO-2023-152 Engin. Goodmans Modular Furniture
Exhibit A
Exhibit B.1
Exhibit B.2
Drawings

COOPERATIVE PURCHASE CONTRACT
Contract No. CO-2023-152

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 2023 by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and Goodmans Inc., DBA Goodman's Interior Structure., an Arizona corporation ("Contractor").

RECITALS:

A. The State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. ADSPO18-00008152 that resulted in Contract No. ADSPO18-211721 with Contractor ("Agency Contract"); and

B. Contractor is a dealer as described in the Agency Contract; and

C. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

Modular Furniture and Related Services – Engineering

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Scope of Work, *Exhibit A* and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided shall be **one hundred forty-six thousand three hundred ninety-seven and seventy-two cents ($146,397.72), in addition to taxes and other charges**; made in accordance with the price list and terms set forth in the Agency Contract. Any price adjustment must be approved by mutual written consent of the parties through a formal amendment. The City Manager or his/her designee (the Purchasing Director) may approve an amendment if the amendment price increase is less than $50,000; otherwise, City Council approval is required.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in *Exhibit B*, attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance

under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

8. Notice: Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:
Manuel Rivera
Facilities Maintenance Manager
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
manuel.rivera@flagstaffaz.gov
Phone: 928-213-2163

To Contractor:
Kevin Hoehne
Account Manager
Goodmans Interior
1400 E. Indian School Road
Phoenix, AZ 85014
khoehne@goodmans.com
Phone: 602-499-4100

With a copy to:
Liane Garcia
Buyer
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
lgarcia@flagstaffaz.gov
Phone: 928-213-2279

To Contractor:
Ray Tanner
Sales Associate
Goodmans Interior
1400 E. Indian School Road
Phoenix, AZ 85014
rtanner@goodmans.com
Phone: 602-512-0546

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

CONTRACTOR:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

EXHIBIT A
SCOPE OF WORK
(Attached)

1. Quote #167768

EXHIBIT B
AGENCY CONTRACT
(Attached)

1. ADSPO18-211721_Contract_Amendment_Summary_8
2. ADSPO18-211721-Contract_Document_-_GOODMANS_INC

Goodmans
Interior Structures

Proposal

1400 E. Indian School Road
Phoenix, AZ 85014
Phone: (602) 263-1110
ROC No. 292752

Sales Order #	167768
Date	Jun 16, 2023
Customer PO	.
Customer	City of Flagstaff
Salesperson	Kevin Hoehne
Project #	16736
Terms	NET 30 DAYS
Page	1 of 26

Bill To

City of Flagstaff
211 W Aspen Ave
AP
Flagstaff, AZ 86001

ATTN: Manuel Rivera
Email: Manuel.rivera@flagstafaz.gov

Ship To

City of Flagstaff
211 W Aspen Ave
Flagstaff, AZ 86001

ATTN: Manuel Rivera
Email: Manuel.rivera@flagstafaz.gov

Pricing Per AZ State Contract# ADSPO18-211721
**
City Hall
**
Account Manager: Kevin Hoehne, Cell: (602) 499-4100, khoehne@goodmans.com
Sales Associate: Ray Tanner, Cell: (602) 512-0546, Rtanner@goodmans.com
Project Manager: David Silva, Cell: (602) 527-3734. dsilva@goodmans.com
**
Payments made via credit card will incur a 3% processing fee on the amount of payment.
Payment address: Goodmans Interior Structures, 1400 E Indian School Rd, Phoenix, AZ 85014

Line	Quantity	Description	Unit Price	Extended Amount
35	5.00 Each	Herman Miller SA890063---------- AO2 Rolling Door (Options) OPTION: :Standard Product Reference-AO2 rolling door OPTION: :Modified Product Reference--OPTIONS ROLLING DOOR OPTION: :Deviation--Options Rolling Door OPTION: :Height-67-Door will be 67" high, rolling next to a 67" high adjacent AO2 panel. OPTION: :Thin Panel Base--Base of panel will be thin. OPTION: :Width-48-Door is 48" wide, closing a 36" opening, rolling adjacent to a 48" wide AO2 panel or combination of panels that equal 48". (need 48" of clear space) OPTION: :Surface Material--Door insert will be full height fluted translucent insert. OPTION: :Door frame/post finish-CL-Frame finish is CL Receiver post, (which replaces a finished end) for closing side is included and is CL finish with CL cable management finish. OPTION: :Lock--No lock OPTION: :Pull and lock housing finish.-CL-Cool Grey Neutral Tag-Individual Line: Tag T3: Area A	1,231.20	6,156.00

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Proposal

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Phone: (602) 263-1110
ROC No. 292752

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36	12.00 Each	Herman Miller A8120.6730N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 30W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area A Tag T4: Area A	266.10	3,193.20
37	5.00 Each	Herman Miller A8120.6742G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 42W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area A Tag T4: Area A	402.00	2,010.00
38	3.00 Each	Herman Miller A8120.6742N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 42W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area A Tag T4: Area A	328.20	984.60
39	8.00 Each	Herman Miller A8120.6748G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 48W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area A Tag T4: Area A	423.60	3,388.80

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40	6.00 Each	Herman Miller A8120.6748N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 48W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area A Tag T4: Area A	348.90	2,093.40
41	17.00 Each	Herman Miller AO215.62 +Draw Rod 62H Tag-Individual Line: Tag T3: Area A Tag T4: Area A	12.90	219.30
42	8.00 Each	Herman Miller A8271.67H--8Q-8Q +Fin End,Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	27.00	216.00
43	5.00 Each	Herman Miller A8230.67H--8Q-8Q +Conn,3-Way 90 Deg,Thin Base Hard 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	119.70	598.50
44	2.00 Each	Herman Miller A8240.67H--8Q-8Q +Conn,4-Way 90 Deg,Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	153.60	307.20
45	5.00 Each	Herman Miller A8220.67H--8Q-8Q +Conn,2-Way 90 Deg,Thin Base Hard 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	73.50	367.50

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46	2.00 Each	Herman Miller K1311.C--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit C 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	93.00	186.00
47	2.00 Each	Herman Miller K1311.A--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit A 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	93.00	186.00
48	2.00 Each	Herman Miller K1311.B--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit B 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	93.00	186.00
49	1.00 Each	Herman Miller A1322.06E +Base Pwr Entry,Dir Con 4-Circ,6Ft L Tag-Individual Line: Tag T3: Area A Tag T4: Area A	81.30	81.30
50	6.00 Each	Herman Miller SA889860---------- Motia Top OPTION: :Standard Product Reference-U1BG365C3066LLBQLBQ OPTION: :Modified Product Reference--U1BG365*3066LLBQLBQ OPTION: :Deviation--Foot Type OPTION: :Type-2-2 legged OPTION: :Foot Type-**-No Predrilled Holes for Non-HMI Base OPTION: :Depth-30-30" deep (29" surface size) OPTION: :Width-66-66" wide (64" surface size) OPTION: :Surface Material-L-laminate top/thermoplastic edge OPTION: :Table Top Finish-LBQ-white twill OPTION: :Edge Finish-LBQ-white twill OPTION: :NOTE-**-Herman Miller not responsible for form, fit or function. Dealer responsible for proper support and pinch points (where applicable) Tag-Individual Line: Tag T3: Area A	234.88	1,409.28

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51	6.00 Each	Herman Miller A2310.2496L--LBQ-LBQ-8Q +Work Surf,Sq-Edge Rect, Lam Top/TP Edge 24D 96W OPTION: LBQ:+white twill OPTION: LBQ:+white twill OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	302.70	1,816.20
52	6.00 Each	Herman Miller AO382.40--BU +Cable Mgmt Trough,Wk Surf Susp 4H 40W OPTION: BU:+black umber Tag-Individual Line: Tag T3: Area A Tag T4: Area A	42.30	253.80
53	6.00 Each	Enwork CPPSI Plug Strip, 6-outlet Surge Protector with Rotating Plug and 6' Cord, White Tag-Individual Line: Tag T3: Area A Tag T5: CPPSI	55.86	335.16
54	6.00 Each	Enwork PR22--S Proxi Electric Adjustment C-Leg BIFMA Range Base Assembly for Rectangle Tops, Black OPTION: S:Silver Tag-Individual Line: Tag T3: Area A Tag T5: PRR	523.26	3,139.56
55	6.00 Each	Enwork PRAA--S Proxi Hinging Trough, 27.5" OPTION: S:Silver Tag-Individual Line: Tag T3: Area A Tag T5: PRAA	100.70	604.20
56	6.00 Each	Enwork AMCMTRG Wire Manager to Trough Applications, Grey Tag-Individual Line: Tag T3: Area A Tag T5: AMCMTRW	81.32	487.92
57	6.00 Each	Herman Miller A3210.1348--8Q +Shelf,B-Style (Std) 15-1/2H 13D 48W OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	93.60	561.60

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58	6.00 Each	Herman Miller A9001.1348--KA-8Q-2V-09 +Flip Dr Unit,E-Style Fab,W/Lock 13D 48W 15-1/2H OPTION: KA:+keyed alike OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area A Tag T4: Area A	299.40	1,796.40
59	12.00 Each	Herman Miller A3410.2048--95-15 +Tackboard,B-Style 20H 48W OPTION: 95:+gem-Pr Cat 1 OPTION: 15:+gem slate grey Tag-Individual Line: Tag T3: Area A Tag T4: Area A	122.10	1,465.20
60	6.00 Each	Herman Miller G6160.BM +Twist LED Task Light,Starter unit,Magnet Att Tag-Individual Line: Tag T3: Area A Tag T4: Area A	207.00	1,242.00
61	6.00 Each	Herman Miller G6160.CM +Twist LED Task Light,Add-on unit,Magnet Att Tag-Individual Line: Tag T3: Area A Tag T4: Area A	149.10	894.60
62	6.00 Each	Herman Miller LW100.20BBF--SB-SS-8Q-KA-1F-3M +Ped W-Pull,Freestd 20D B/B/F OPTION: SB:+full-extension ball-bearing OPTION: SS:+smooth paint on smooth steel OPTION: 8Q:+folkstone grey OPTION: KA:+keyed alike OPTION: 1F:+standard height OPTION: 3M:+drawer divider in one box drawer, pencil tray in one box drawer, 2 file converters in file drawer Tag-Individual Line: Tag T3: Area A Tag T4: Area A	282.54	1,695.24
63	2.00 Each	Herman Miller 1B2JK7---231 +Lock Plug and Key,Chrome UM Series OPTION: 231:+key number 231 Tag-Individual Line: Tag T3: Area A Tag T4: Area A	3.00	6.00

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64	2.00 Each	Herman Miller 1B2JK7---230 +Lock Plug and Key,Chrome UM Series OPTION: 230:+key number 230 Tag-Individual Line: Tag T3: Area A Tag T4: Area A	3.00	6.00
65	2.00 Each	Herman Miller 1B2JK7---229 +Lock Plug and Key,Chrome UM Series OPTION: 229:+key number 229 Tag-Individual Line: Tag T3: Area A Tag T4: Area A	3.00	6.00
66	2.00 Each	Herman Miller 1B2JK7---228 +Lock Plug and Key,Chrome UM Series OPTION: 228:+key number 228 Tag-Individual Line: Tag T3: Area A Tag T4: Area A	3.00	6.00
67	2.00 Each	Herman Miller 1B2JK7---227 +Lock Plug and Key,Chrome UM Series OPTION: 227:+key number 227 Tag-Individual Line: Tag T3: Area A Tag T4: Area A	3.00	6.00
68	2.00 Each	Herman Miller 1B2JK7---226 +Lock Plug and Key,Chrome UM Series OPTION: 226:+key number 226 Tag-Individual Line: Tag T3: Area A Tag T4: Area A	3.00	6.00

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69	1.00 Each	Herman Miller SA890063---------- AO2 Rolling Door (Options) OPTION: :Standard Product Reference-AO2 rolling door OPTION: :Modified Product Reference--OPTIONS ROLLING DOOR OPTION: :Deviation--Options Rolling Door OPTION: :Height-67-Door will be 67" high, rolling next to a 67" high adjacent AO2 panel. OPTION: :Thin Panel Base--Base of panel will be thin. OPTION: :Width-48-Door is 48" wide, closing a 36" opening, rolling adjacent to a 48" wide AO2 panel or combination of panels that equal 48". (need 48" of clear space) OPTION: :Surface Material--Door insert will be full height fluted translucent insert. OPTION: :Door frame/post finish-CL-Frame finish is CL Receiver post, (which replaces a finished end) for closing side is included and is CL finish with CL cable management finish. OPTION: :Lock--No lock OPTION: :Pull and lock housing finish.-CL-Cool Grey Neutral Tag-Individual Line: Tag T3: Area B	1,231.20	1,231.20
70	16.00 Each	Herman Miller A8120.6730N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 30W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area B Tag T4: Area B	266.10	4,257.60
71	5.00 Each	Herman Miller A8120.6742G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 42W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area B Tag T4: Area B	402.00	2,010.00

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72	5.00 Each	Herman Miller A8120.6742N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 42W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area B Tag T4: Area B	328.20	1,641.00
73	9.00 Each	Herman Miller A8120.6748G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 48W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area B Tag T4: Area B	423.60	3,812.40
74	9.00 Each	Herman Miller A8120.6748N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 48W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area B Tag T4: Area B	348.90	3,140.10
75	12.00 Each	Herman Miller A8271.67H--8Q-8Q +Fin End,Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	27.00	324.00
76	5.00 Each	Herman Miller A8220.67H--8Q-8Q +Conn,2-Way 90 Deg,Thin Base Hard 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	73.50	367.50

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77	3.00 Each	Herman Miller A8230.67H--8Q-8Q +Conn,3-Way 90 Deg,Thin Base Hard 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	119.70	359.10
78	4.00 Each	Herman Miller A8240.67H--8Q-8Q +Conn,4-Way 90 Deg,Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	153.60	614.40
79	22.00 Each	Herman Miller AO215.62 +Draw Rod 62H Tag-Individual Line: Tag T3: Area B Tag T4: Area B	12.90	283.80
80	2.00 Each	Herman Miller K1311.B--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit B 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	93.00	186.00
81	2.00 Each	Herman Miller K1311.A--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit A 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	93.00	186.00
82	1.00 Each	Herman Miller K1311.C--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit C 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	93.00	93.00
83	1.00 Each	Herman Miller A8342. +Pwr Harness Extender,Thin Base Tag-Individual Line: Tag T3: Area B Tag T4: Area B	14.40	14.40

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84	1.00 Each	Herman Miller A8325.67E--8Q-8Q +Ceiling Pwr Entry,Int Direct Conn,Pwr Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	225.90	225.90
85	8.00 Each	Herman Miller A2310.2496L--LBQ-LBQ-8Q +Work Surf,Sq-Edge Rect, Lam Top/TP Edge 24D 96W OPTION: LBQ:+white twill OPTION: LBQ:+white twill OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	302.70	2,421.60
86	8.00 Each	Herman Miller SA889860---------- Motia Top OPTION: :Standard Product Reference-U1BG365C3066LLBQLBQ OPTION: :Modified Product Reference--U1BG365*3066LLBQLBQ OPTION: :Deviation--Foot Type OPTION: :Type-2-2 legged OPTION: :Foot Type-**-No Predrilled Holes for Non-HMI Base OPTION: :Depth-30-30" deep (29" surface size) OPTION: :Width-66-66" wide (64" surface size) OPTION: :Surface Material-L-laminate top/thermoplastic edge OPTION: :Table Top Finish-LBQ-white twill OPTION: :Edge Finish-LBQ-white twill OPTION: :NOTE-**-Herman Miller not responsible for form, fit or function. Dealer responsible for proper support and pinch points (where applicable) Tag-Individual Line: Tag T3: Area B	234.88	1,879.04
87	8.00 Each	Enwork AMCMTRG Wire Manager to Trough Applications, Grey Tag-Individual Line: Tag T3: Area B Tag T5: AMCMTRW	81.32	650.56
88	8.00 Each	Enwork CPPSI Plug Strip, 6-outlet Surge Protector with Rotating Plug and 6' Cord, White Tag-Individual Line: Tag T3: Area B Tag T5: CPPSI	55.86	446.88

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89	8.00 Each	Enwork PRAA--S Proxi Hinging Trough, 27.5" OPTION: S:Silver Tag-Individual Line: Tag T3: Area B Tag T5: PRAA	100.70	805.60
90	8.00 Each	Enwork PR22--S Proxi Electric Adjustment C-Leg BIFMA Range Base Assembly for Rectangle Tops, Black OPTION: S:Silver Tag-Individual Line: Tag T3: Area B Tag T5: PRR	523.26	4,186.08
91	8.00 Each	Herman Miller AO382.40--BU +Cable Mgmt Trough,Wk Surf Susp 4H 40W OPTION: BU:+black umber Tag-Individual Line: Tag T3: Area B Tag T4: Area B	42.30	338.40
92	8.00 Each	Herman Miller A3210.1348--8Q +Shelf,B-Style (Std) 15-1/2H 13D 48W OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	93.60	748.80
93	8.00 Each	Herman Miller A9001.1348--KA-8Q-2V-09 +Flip Dr Unit,E-Style Fab,W/Lock 13D 48W 15-1/2H OPTION: KA:+keyed alike OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area B Tag T4: Area B	299.40	2,395.20
94	8.00 Each	Herman Miller G6160.CM +Twist LED Task Light,Add-on unit,Magnet Att Tag-Individual Line: Tag T3: Area B Tag T4: Area B	149.10	1,192.80
95	8.00 Each	Herman Miller G6160.BM +Twist LED Task Light,Starter unit,Magnet Att Tag-Individual Line: Tag T3: Area B Tag T4: Area B	207.00	1,656.00

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96	16.00 Each	Herman Miller A3410.2048--95-15 +Tackboard,B-Style 20H 48W OPTION: 95:+gem-Pr Cat 1 OPTION: 15:+gem slate grey Tag-Individual Line: Tag T3: Area B Tag T4: Area B	122.10	1,953.60
97	8.00 Each	Herman Miller LW100.20BBF--SB-SS-8Q-KA-1F-3M +Ped W-Pull,Freestd 20D B/B/F OPTION: SB:+full-extension ball-bearing OPTION: SS:+smooth paint on smooth steel OPTION: 8Q:+folkstone grey OPTION: KA:+keyed alike OPTION: 1F:+standard height OPTION: 3M:+drawer divider in one box drawer, pencil tray in one box drawer, 2 file converters in file drawer Tag-Individual Line: Tag T3: Area B Tag T4: Area B	282.54	2,260.32
98	2.00 Each	Herman Miller 1B2JK7---234 +Lock Plug and Key,Chrome UM Series OPTION: 234:+key number 234 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
99	2.00 Each	Herman Miller 1B2JK7---235 +Lock Plug and Key,Chrome UM Series OPTION: 235:+key number 235 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
100	2.00 Each	Herman Miller 1B2JK7---236 +Lock Plug and Key,Chrome UM Series OPTION: 236:+key number 236 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
101	2.00 Each	Herman Miller 1B2JK7---237 +Lock Plug and Key,Chrome UM Series OPTION: 237:+key number 237 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00

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102	2.00 Each	Herman Miller 1B2JK7---238 +Lock Plug and Key,Chrome UM Series OPTION: 238:+key number 238 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
103	2.00 Each	Herman Miller 1B2JK7---239 +Lock Plug and Key,Chrome UM Series OPTION: 239:+key number 239 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
104	2.00 Each	Herman Miller 1B2JK7---233 +Lock Plug and Key,Chrome UM Series OPTION: 233:+key number 233 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
105	2.00 Each	Herman Miller 1B2JK7---232 +Lock Plug and Key,Chrome UM Series OPTION: 232:+key number 232 Tag-Individual Line: Tag T3: Area B Tag T4: Area B	3.00	6.00
106	3.00 Each	Herman Miller SA890063---------- AO2 Rolling Door (Options) OPTION: :Standard Product Reference-AO2 rolling door OPTION: :Modified Product Reference--OPTIONS ROLLING DOOR OPTION: :Deviation--Options Rolling Door OPTION: :Height-67-Door will be 67" high, rolling next to a 67" high adjacent AO2 panel. OPTION: :Thin Panel Base--Base of panel will be thin. OPTION: :Width-48-Door is 48" wide, closing a 36" opening, rolling adjacent to a 48" wide AO2 panel or combination of panels that equal 48". (need 48" of clear space) OPTION: :Surface Material--Door insert will be full height fluted translucent insert. OPTION: :Door frame/post finish-CL-Frame finish is CL Receiver post, (which replaces a finished end) for closing side is included and is CL finish with CL cable management finish. OPTION: :Lock--No lock OPTION: :Pull and lock housing finish.-CL-Cool Grey Neutral Tag-Individual Line: Tag T3: Area C	1,231.20	3,693.60

Goodmans
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Proposal

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107	1.00 Each	Herman Miller A8120.6724N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 24W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	237.00	237.00
108	6.00 Each	Herman Miller A8120.6748N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 48W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	348.90	2,093.40
109	2.00 Each	Herman Miller A8120.3930N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 39H 30W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	206.70	413.40
110	1.00 Each	Herman Miller A8120.3960N--8Q-8Q-2V-09-2I-09 +Panel,Fabric,Thin Base Npwr 39H 60W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2I:+grasscloth-Pr Cat 1 OPTION: 09:+grasscloth steam grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	318.60	318.60

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111	3.00 Each	Herman Miller A8120.6724G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 24W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	312.30	936.90
112	1.00 Each	Herman Miller A8120.6730G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 30W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	341.40	341.40
113	10.00 Each	Herman Miller A8120.6730N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 30W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	266.10	2,661.00
114	1.00 Each	Herman Miller A8120.6736N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 36W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	307.50	307.50

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115	2.00 Each	Herman Miller A8120.6742G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 42W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	402.00	804.00
116	5.00 Each	Herman Miller A8120.6742N--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base Npwr 67H 42W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	328.20	1,641.00
117	6.00 Each	Herman Miller A8120.6748G--8Q-8Q-2V-09-2V-09 +Panel,Fabric,Thin Base 4-Circ W/Com Pt Lc 67H 48W OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	423.60	2,541.60
118	1.00 Each	Herman Miller AO272.--8Q +Fin End,Chg-of-Ht,Panel/Panel OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	14.70	14.70
119	1.00 Each	Herman Miller AO219.34 +Draw Rod,Chg-of-Ht 34H Tag-Individual Line: Tag T3: Area C Tag T4: Area C	14.10	14.10

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120	19.00 Each	Herman Miller AO215.62 +Draw Rod 62H Tag-Individual Line: Tag T3: Area C Tag T4: Area C	12.90	245.10
121	1.00 Each	Herman Miller AO215.34 +Draw Rod 34H Tag-Individual Line: Tag T3: Area C Tag T4: Area C	12.60	12.60
122	7.00 Each	Herman Miller A8271.67H--8Q-8Q +Fin End,Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	27.00	189.00
123	3.00 Each	Herman Miller A8240.67H--8Q-8Q +Conn,4-Way 90 Deg,Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	153.60	460.80
124	1.00 Each	Herman Miller A8271.39H--8Q-8Q +Fin End,Thin Base 39H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	24.00	24.00
125	2.00 Each	Herman Miller A8230.67H--8Q-8Q +Conn,3-Way 90 Deg,Thin Base Hard 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	119.70	239.40
126	6.00 Each	Herman Miller A8220.67H--8Q-8Q +Conn,2-Way 90 Deg,Thin Base Hard 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	73.50	441.00

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127	1.00 Each	Herman Miller A8220.39H--8Q-8Q +Conn,2-Way 90 Deg,Thin Base Hard 39H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	58.50	58.50
128	1.00 Each	Herman Miller A8325.67E--8Q-8Q +Ceiling Pwr Entry,Int Direct Conn,Pwr Thin Base 67H OPTION: 8Q:+folkstone grey OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	225.90	225.90
129	2.00 Each	Herman Miller K1311.A--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit A 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	93.00	186.00
130	2.00 Each	Herman Miller K1311.B--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit B 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	93.00	186.00
131	2.00 Each	Herman Miller K1311.C--8Q +15 Amp Receptacle 4 Circuit, Duplex, Circuit C 6/Pkg OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	93.00	186.00

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132	3.00 Each	Herman Miller SA889861---------- Motia Top OPTION: :Standard Product Reference-U1BG365C3072LLBQLBQ OPTION: :Modified Product Reference--U1BG365*3090LLBQLBQ OPTION: :Deviation--Foot Type - Width OPTION: :Type-2-2 legged OPTION: :Foot Type-**-No Predrilled Holes for Non-HMI Base OPTION: :Depth-30-30" deep (29" surface size) OPTION: :Width-90-90" wide (88" surface size) OPTION: :Surface Material-L-laminate top/thermoplastic edge OPTION: :Table Top Finish-LBQ-white twill OPTION: :Edge Finish-LBQ-white twill OPTION: :NOTE 1-**-Not UL Listed Listed Due to Size Modification OPTION: :NOTE 2-**-Herman Miller not responsible for f orm, fit or function. Dealer responsible for proper support and pinch points (where applicable) Tag-Individual Line: Tag T3: Area C	252.16	756.48
133	3.00 Each	Herman Miller SA889860---------- Motia Top OPTION: :Standard Product Reference-U1BG365C3066LLBQLBQ OPTION: :Modified Product Reference--U1BG365*3066LLBQLBQ OPTION: :Deviation--Foot Type OPTION: :Type-2-2 legged OPTION: :Foot Type-**-No Predrilled Holes for Non-HMI Base OPTION: :Depth-30-30" deep (29" surface size) OPTION: :Width-66-66" wide (64" surface size) OPTION: :Surface Material-L-laminate top/thermoplastic edge OPTION: :Table Top Finish-LBQ-white twill OPTION: :Edge Finish-LBQ-white twill OPTION: :NOTE-**-Herman Miller not responsible for form, fit or function. Dealer responsible for proper support and pinch points (where applicable) Tag-Individual Line: Tag T3: Area C	234.88	704.64
134	5.00 Each	Herman Miller A2310.2496L--LBQ-LBQ-8Q +Work Surf,Sq-Edge Rect, Lam Top/TP Edge 24D 96W OPTION: LBQ:+white twill OPTION: LBQ:+white twill OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	302.70	1,513.50

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135	1.00 Each	Herman Miller A2310.3090L--LBQ-LBQ-8Q +Work Surf,Sq-Edge Rect, Lam Top/TP Edge 30D 90W OPTION: LBQ:+white twill OPTION: LBQ:+white twill OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	336.60	336.60
136	1.00 Each	Herman Miller A2830.1460L--LBQ-LBQ +Trans Surf,Sq-Edge Rect, Lam Top/TP Edge 60W OPTION: LBQ:+white twill OPTION: LBQ:+white twill Tag-Individual Line: Tag T3: Area C Tag T4: Area C	115.50	115.50
137	1.00 Each	Herman Miller AO463.--8Q +Trans Surf Support,Mid-End OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	18.60	18.60
138	1.00 Each	Herman Miller AO464.--8Q +Trans Surf Support,Chg-of-Ht OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	20.40	20.40
139	6.00 Each	Enwork AMCMTRG Wire Manager to Trough Applications, Grey Tag-Individual Line: Tag T3: Area C Tag T5: AMCMTRW	81.32	487.92
140	6.00 Each	Enwork CPPSI Plug Strip, 6-outlet Surge Protector with Rotating Plug and 6' Cord, White Tag-Individual Line: Tag T3: Area C Tag T5: CPPSI	55.86	335.16
141	6.00 Each	Enwork PR22--S Proxi Electric Adjustment C-Leg BIFMA Range Base Assembly for Rectangle Tops, Black OPTION: S:Silver Tag-Individual Line: Tag T3: Area C Tag T5: PRR	523.26	3,139.56

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142	6.00 Each	Enwork PRAA--S Proxi Hinging Trough, 27.5" OPTION: S:Silver Tag-Individual Line: Tag T3: Area C Tag T5: PRAA	100.70	604.20
143	3.00 Each	Enwork PRLB Proxi Cross Bar Kit for 84" - 96"W Tables Tag-Individual Line: Tag T3: Area C Tag T5: PRLB	117.80	353.40
144	6.00 Each	Herman Miller AO382.40--BU +Cable Mgmt Trough,Wk Surf Susp 4H 40W OPTION: BU:+black umber Tag-Individual Line: Tag T3: Area C Tag T4: Area C	42.30	253.80
145	1.00 Each	Herman Miller A3221.1348--8Q +Shelf,B-Style 7-1/2H 13D 48W OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	71.40	71.40
146	5.00 Each	Herman Miller A3210.1348--8Q +Shelf,B-Style (Std) 15-1/2H 13D 48W OPTION: 8Q:+folkstone grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	93.60	468.00
147	6.00 Each	Herman Miller A9001.1348--KA-8Q-2V-09 +Flip Dr Unit,E-Style Fab,W/Lock 13D 48W 15-1/2H OPTION: KA:+keyed alike OPTION: 8Q:+folkstone grey OPTION: 2V:+chain-Pr Cat 1 OPTION: 09:+chain iceberg Tag-Individual Line: Tag T3: Area C Tag T4: Area C	299.40	1,796.40
148	12.00 Each	Herman Miller A3410.2048--95-15 +Tackboard,B-Style 20H 48W OPTION: 95:+gem-Pr Cat 1 OPTION: 15:+gem slate grey Tag-Individual Line: Tag T3: Area C Tag T4: Area C	122.10	1,465.20

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149	6.00 Each	Herman Miller G6160.CM +Twist LED Task Light,Add-on unit,Magnet Att Tag-Individual Line: Tag T3: Area C Tag T4: Area C	149.10	894.60
150	6.00 Each	Herman Miller G6160.BM +Twist LED Task Light,Starter unit,Magnet Att Tag-Individual Line: Tag T3: Area C Tag T4: Area C	207.00	1,242.00
151	6.00 Each	Herman Miller LW100.20BBF--SB-SS-8Q-KA-1F-3M +Ped W-Pull,Freestd 20D B/B/F OPTION: SB:+full-extension ball-bearing OPTION: SS:+smooth paint on smooth steel OPTION: 8Q:+folkstone grey OPTION: KA:+keyed alike OPTION: 1F:+standard height OPTION: 3M:+drawer divider in one box drawer, pencil tray in one box drawer, 2 file converters in file drawer Tag-Individual Line: Tag T3: Area C Tag T4: Area C	282.54	1,695.24
152	2.00 Each	Herman Miller 1B2JK7---240 +Lock Plug and Key,Chrome UM Series OPTION: 240:+key number 240 Tag-Individual Line: Tag T3: Area C Tag T4: Area C	3.00	6.00
153	2.00 Each	Herman Miller 1B2JK7---241 +Lock Plug and Key,Chrome UM Series OPTION: 241:+key number 241 Tag-Individual Line: Tag T3: Area C Tag T4: Area C	3.00	6.00
154	2.00 Each	Herman Miller 1B2JK7---242 +Lock Plug and Key,Chrome UM Series OPTION: 242:+key number 242 Tag-Individual Line: Tag T3: Area C Tag T4: Area C	3.00	6.00
155	2.00 Each	Herman Miller 1B2JK7---243 +Lock Plug and Key,Chrome UM Series OPTION: 243:+key number 243 Tag-Individual Line: Tag T3: Area C Tag T4: Area C	3.00	6.00

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156	2.00 Each	Herman Miller 1B2JK7---244 +Lock Plug and Key,Chrome UM Series OPTION: 244:+key number 244 Tag-Individual Line: Tag T3: Area C Tag T4: Area C	3.00	6.00
157	2.00 Each	Herman Miller 1B2JK7---245 +Lock Plug and Key,Chrome UM Series OPTION: 245:+key number 245 Tag-Individual Line: Tag T3: Area C Tag T4: Area C	3.00	6.00
158	1.00 Each	Goodmans Design Services DESIGN Design Services Tag-Individual Line: Tag T3: Labor and Services	3,432.00	3,432.00
159	1.00 Each	Goodmans Project Management PROJECT MANAGEMENT Project Management Services Tag-Individual Line: Tag T3: Labor and Services	3,510.00	3,510.00
160	1.00 Each	Goodmans Delivery & Installation DELINS DELIVERY AND INSTALLATION	19,538.00	19,538.00

Order Sub-Total :	$136,901.34
PHOENIX-ARIZONA-85014-MARICOPA CO-0.086% :	$9,496.38
TOTAL ORDER :	**$146,397.72**

Signature is acceptance of this project proposal and Goodmans' Terms and Conditions

_____ _____

Signature Date

_____

(Print) Name and Title

Goodmans
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Goodmans Terms & Conditions of Sale

Unless a separate written contract exists between Goodmans and City of Flagstaff (herein identified as the 'Customer'), this Agreement shall be the exclusive and binding agreement between the parties. Customer shall be deemed to have accepted all terms and conditions incorporated in this Agreement by signature on the proposal or written confirmation.

PRICING: Pricing contained within this Agreement shall remain valid for 30 days unless otherwise noted.
DEPOSITS: A deposit is required at the time of order entry pending a credit review of the Customers' account. This deposit will be applied against the final invoice. Any deposits required by the Manufacturer shall also be required of the Customer.
INVOICING: Invoices will be sent to the customer when the project is substantially complete as determined by Goodmans. For projects that are completed in phases, progressive billings may be required as each phase is completed.
TAXES: Goodmans will charge, and the Customer shall pay, all sales, excise, and other applicable taxes which Goodmans is required to collect. If Customer claims an exemption from such taxes, it shall be the Customer's responsibility to furnish a valid and appropriate exemption certificate.
PAYMENT: Payment of all invoices are due in full based on the terms granted to the Customer and shown on the invoice. Any deposits on the order will be applied at that time with a balance remaining. Customer may hold 5% retainage for uncompleted installation or an amount equal to the selling price of any damaged, backordered, or missing product, whichever is lower. Customer agrees to pay a finance charge of one point five percent (1.5%) per month which is an annual percentage rate of 18% on all delinquent invoices over 30 days past due. Payments made by credit card carry a 3% fee.
ORDER MODIFICATIONS, CANCELLATIONS, AND RETURNS: Orders may not be cancelled or returned, in whole or in part, without the express written consent of Goodmans. Any change or cancellation, if agreed to, may result in an increase in price or a credit of 40% of the purchase price. Modifications to an order or a change in scope may result in an increase in price and must accompany a written change order signed by both parties.
CONDITION OF INSTALLATION SITE: Customer agrees that the space will be complete and ready for product installation, and that Goodmans will have free and clear access to the space. Minimal interruptions by other trades such as coordination with electrician or data contractors are expected. Interruptions for plumbing, drywall, ceiling tile, paint, lighting, and flooring will result in a down time charge. After product is delivered to the Customer site, any loss or damage shall be the responsibility of the Customer. Customer agrees to hold Goodmans harmless from loss for such reasons. Product shipments are to be unloaded at a loading dock or a street level location with a reasonable push to the building. If a reach lift is needed, the Customer agrees to pay the rental rate plus 5%. Customer agrees that should a dedicated working elevator not be available, any product that must be stair carried will incur a $75 per man hour delivery surcharge. Unless otherwise agreed upon and stated, Customer is solely responsible for any electrical power and hardware hookup to the building power source by a licensed electrician.
STORAGE: Goodmans will provide up to 30 days of storage free of charge should the job site not be ready for delivery and installation. After 30 days, storage charges will be assessed for all products held at Goodmans' warehouse. Customer agrees that Goodmans is not responsible for concealed damage for any product that is installed five (5) days after receiving in Goodmans' warehouse.
SHIPMENTS, DELIVERIES, FREIGHT, AND CLAIMS: All product shipments are made to Goodmans or shipped direct from the manufacturer to the end user, as determined by Goodmans. Goodmans shall not be held responsible for any shipping damage, delay, or incidental or consequential damages due to actions by manufacturers, transportation carriers, or circumstances that is outside of Goodmans' control. Goodmans shall not be held responsible for any shipping damage. Partial shipments may be necessary and are at the discretion of the manufacturer. Freight charges incurred by Goodmans will be invoiced to Customer. Claims for transportation damage will be Customer's responsibility if Customer receives merchandise directly from the manufacturer. Claims for transportation damage must be immediately made by Customer. Goodmans will assist Customer in making a damage claim. If no such claim is made after Seventy-Two (72) hours following delivery or installation it will be conclusively presumed that Customer has accepted the products and that the products are as represented.
DESIGN: All designs, plans, drawings, specifications, samples, and the contents therein regarding this sale shall remain the property of Goodmans, unless design services and fees are explicitly paid for by the customer, and may not be used, reproduced or distributed, in whole or in part without the express written permission of Goodmans.
WARRANTY: Standard manufacturer warranties apply to all furniture. Installation services are warrantied by Goodmans to be free from defects in materials or workmanship for a period of twelve (12) months from the date of delivery unless otherwise specified. In no event will Goodmans be responsible for any post-installation damage to products, whether resulting from Customer's use of unapproved cleaning products, improper maintenance practices, or other cause.

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LIMITED WARRANTY: Goodmans makes no warranties, express or implied, as to the merchantability or as to the suitability of the merchandise for any particular purpose, except those made by the manufacturer.
LIMITED LIABILITY: Goodmans shall not be liable for any consequential, incidental, special or exemplary damages arising out of or in connection with the sale of a product or performance of a service.
FORCE MAJURE: Goodmans shall not be liable for failure to perform if such failure results directly or indirectly from its inability to obtain materials, parts or supplies at reasonable prices or through usual and regular sources or on a timely basis, interruption of transportation, government regulation, labor disputes, strikes, riots, insurrection, civil commotion, fire, floor, accident, storm, or act of God, plague, epidemic, pandemic, outbreaks of infectious disease or any of public health crisis, including quarantine or other employee restrictions, or other abuse beyond Goodmans' control.
ENTIRE AGREEMENT & CONTROLLING LAW: This Agreement constitutes the entire agreement between the parties. Both parties are relying solely upon the terms of this Agreement and not upon any oral or written statements, whether of its directors, offices, employees or agents, of any manufactures, or any other person whatsoever on entering into this Agreement. This agreement shall be interpreted and enforced under the laws of the State of Arizona.

Contract Amendment

Contract:	**ADSPO18-211721.** Amendment: **8.**
Supplier:	**Goodmans Inc.**
Service:	**Furniture, Products, and Services.**

Arizona Department of Administration
State Procurement Office
100 N 15th Avenue
Phoenix, AZ 85007

This Contract Amendment Number **8** to extend the Contract period of **September 1, 2022** through **August 31, 2023** is hereby executed in accordance with Section 3.2, Contract Extensions, and Section 5.1, Contract Amendments, of the Special Terms and Conditions effective as of **July 05, 2022**.

RECITALS

The State and Supplier entered into that certain agreement title Master Service Agreement effective as of **September 1, 2018** pursuant to which Supplier is to provide **Furniture, Products, and Services.**

Thereafter, Amendment **1**, executed on May 22, 2019, extended the contract period from August 31, 2019 through August 31, 2020.
Thereafter, Amendment **2**, executed on March 11, 2020, extended the contract period from August 31, 2020 through August 31, 2021.
Thereafter, Amendment **3**, executed on July 15, 2020, amended the contract pricing as indicated in "Pricing Effective 7.15.20".
Thereafter, Amendment **4**, executed on November 13, 2020, amended the contract pricing to include additional manufacturers as indicated in "Pricing Effective 11.13.2020".
Thereafter, Amendment **5**, executed on May 13, 2021, extended the contract period from August 31, 2021 through August 31, 2022.
Thereafter, Amendment **6**, executed on May 26, 2021, amended the contract pricing to include additional manufacturers as indicated in "Pricing Effective 05.26.2021".
Thereafter, Amendment **7**, executed on January 20, 2022, amended the contract pricing as indicated in "ADSPO18-211721 Contract Amendment Summary 7".

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

This amendment shall be fully executed upon the electronic approval in the State e-Procurement system and applied to the contract in the State e-Procurement system by the Procurement Officer or delegate.

	Request for Proposals Solicitation No. **ADSPO18-00008152** Description: **Furniture, Products and Services**	Arizona Department of Administration **State Procurement Office** 100 N 15th Ave., Suite 402 Phoenix, AZ 85007

Attachment 1
Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide **Furniture, Products and Services** to in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	**1.** x 6/22/2018 date	AG - AG initial					
Revised Offers:	**2.** x date #1	initial	**3.** x date #1	initial	**4.** x date #1	initial	
	5. x date #4	initial	**6.** x date #5	initial	**7.** x date #6	initial	
Best and Final Offer:	**8.** x date	initial					

x Goodmans, Inc. Offeror company name	Signature of person authorized to sign Offer — AG Initials
x 1400 E. Indian School Rd. Address	x Adam Goodman - President and CEO Printed name and title
x Phoenix, AZ 85014 City | State | ZIP	x Stacey Huld - Account Manager Contact name and title
x 86-0202039 Federal tax identifier (EIN or SSN)	x shuld@goodmans.com — x (602) 512-0615 Contact Email Address — Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

1. will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41–1461 through 1465;
2. has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
3. complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
4. is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by number ADSPO18-00008152 at the top of this form, and which was dated (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: ADSPO18-211721 **The effective date of the Contract is: September 1, 2018** **Contract awarded: August 10, 2018**

Procurement Officer signature	Rocky Advani Procurement Officer printed name

	DOCUMENT		SUBMITTED
1.	Category 1:	Chairs/ Seating	☒ YES ☐ no
2.	Category 2:	Free Standing Tables	☒ YES ☐ no
3.	Category 3:	Systems / Modular Furniture	☒ YES ☐ no
4.	Category 4:	Free Standing Desks / Casegoods	☒ YES ☐ no
5.	Category 5:	Storage	☒ YES ☐ no
6.	Category 6:	Classroom / Special School Furniture	☒ YES ☐ no
7.	Category 7.	Architectural Walls	☒ YES ☐ no
8.	Category 8.	Health Care Grade Furniture	☒ YES ☐ no
9.	Category 9.	Public Seating for High Traffic Spaces	☒ YES ☐ no

Douglas A. Ducey
Governor

Gilbert Davidson
Chief Operating Officer and Interim Director

ARIZONA DEPARTMENT OF ADMINISTRATION

STATE PROCUREMENT OFFICE

100 NORTH FIFTEENTH AVENUE • SUITE 402
PHOENIX, ARIZONA 85007

(602) 542-5511 (main)
http://spo.az.gov

August 10, 2018

Sent via e-mail to: shuld@goodmans.com

Re: Award of Contract for Solicitation No. ADSPO18-00008152 for Furniture, Products and Services

Dear Stacey Huld,

Thank you for submitting a response to the Request for Proposal Solicitation No. ADSPO18-00008152 for Furniture, Products and Services. I am pleased to inform you that your company's offer has been selected for award for the following categories:

	Awarded
Category 1 - Chairs/Seating	x
Category 2 - Free Standing Tables	x
Category 3 - Systems/Modular Furniture	x
Category 4 - Free Standing Desks/Case goods	x
Category 5 - Storage	x
Category 6 - Classroom/Special School Furniture	x
Category 7 - Architectural Walls	x
Category 8 - Health Care Grade Furniture	x
Category 9 - Public Seating for High Traffic Spaces	x
Facility and Logistics for State's excess furniture needs	x

The initial contract term shall begin on **September 1, 2018**

All offers received were evaluated in accordance with the evaluation criteria set forth in the solicitation document. The procurement file for this solicitation, including evaluation documents and resultant contracts, will be shortly available for public viewing via the State's e-Procurement system, ProcureAZ.

In accordance with Special Terms and Conditions, Section 6.2 of the contract and prior to beginning work under the contract, your company is required to submit a Certificate of Insurance to the State Procurement Office if you have not already done so. The certificate of insurance shall indicate that your company is in compliance with insurance requirements contained in the contract. **Please submit your certificate of insurance to me no later than August 27, 2018**

You are cautioned not to begin any work under this new contract until the Procurement Officer assigned to your contract has issued a written notice to proceed.

If you have any questions regarding your company's contract, please contact me at rocky.advani@azdoa.gov or 602.542.0100. Thank you for your response and for your continued interest in doing business with the State of Arizona.

Sincerely,



Rocky Advani
State Procurement Manager

Part 2: Scope, Pricing and Terms and Conditions

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SECTION 2-A: Scope of Work

1. Introduction:

The State of Arizona, its Agencies, Boards and Commissions (State) as well as Participating Members of the State Purchasing Cooperative (Cooperative), have an ongoing requirement for various products and services as described herein. The purpose of this solicitation is to conduct a competitive process, in accordance with Arizona Revised Statutes (ARS) 41-2501 et seq., to create a contract(s) from which the State and its Cooperative Members may acquire these products and services. The State of Arizona may choose to standardize their furniture needs during the term of this contract for optimization and cost savings. This standardization initiative will be limited to state agencies only and not cooperatives.

2. Background:

The State desires to establish a Contract Set to supply, install, reconfigure, design and service furniture within the following categories: Chairs/Seating, Free Standing Tables, Systems/ Modular Furniture, Free Standing Desks/Casegoods, Storage, Classroom/Special School Furniture, Architectural / Modular Walls, Public seating for high traffic spaces and Health Care Grade Furniture. Service requirements shall also include warranty, repairs and relocations. The State intends to consider value-added-reseller, distributor, as well as manufacturer- direct proposals. Based on historical data and anticipated volumes, the estimated spend under the resultant contract is anticipated between $30 million and $35 million annually ($10M for State Agencies and $20M-$25M for Coops). However, no guarantee of the actual quantities is implied or expressed by this solicitation. Requirements shall be based on actual need. Contracts resulting from this solicitation will be used by multiple eligible agencies with delivery locations throughout the State.

3. Scope of Products and Services:

Category	Description
1. Chairs/Seating	Task/Work, Executive, Guest/Side, Ergonomic, Folding, Conference Room, Stackable, Training Room, Reception/Lounge, Stools, Couches, Auditorium Seating, Theater Seating (stationary/portable), Other
2. Free Standing Tables	Height Adjustable tables, Training, Conference Room Tables, Small Office Tables, Side Tables, Dining Tables, Credenzas, Reception, Laminate, Wood, Steel, Other
3. Systems/Modular Furniture	Systems Furniture, Fabric Panels-Monolithic, Fabric Panels-Frame and Tile, Organization Accessories, Lighting, Electrical components, Signage, Ergonomic Products-Monitor Arms, Keyboard trays, Footrests, Other
4. Free Standing Desks / Casegoods	Steel Casegoods, Wood Casegoods, Laminate Casegoods, Other
5. Storage	File Cabinets, Shelves (freestanding/wall mounted), Cabinets, Book Case, Office Storage, Other
6. Classroom/Special School Furniture	Desks, Chairs, Tables, Cafeteria, Library, Early Education, Auditorium, Dorm, Locker Room Furniture,Other
7. Architectural Walls	Prefabricated walls, steel or aluminum frame, customized
8. Health Care Grade Furniture	Minimum Grade 3 level healthcare-Sofa's, Benches, Recliners, Chairs, Bedside Cabinets, Dining Tables, Gliders, Consoles, Other
9. Public Seating for High Traffic Spaces	Seating for transportation, judicial, government buildings, healthcare, education, convention centers, Other • Multiple seat ganged units • Minimal floor contact points for clear site lines and ease of cleanability • Covers or pads can be easily replaced in the field • Optional arms can be placed at any location • Optional power that can be mounted to the units or be an integral part of the beam

The Successful Contractor(s) shall provide a broad range of Furniture Products and Services as well as all necessary account and delivery services. The Furniture Products and Services under this contract include the actual manufacturer's product and all labor, materials, transportation, equipment and other activities for, and reasonably incidental to the installation, design and configuration of the manufacturer's product. Offerors shall make available a complete family or line of business of a manufacturer's products at a "percent discount off list price."

3.1 Product Requirements;

Furniture offered in the following categories shall be considered for award. These categories shall be defined by similar types of products and include all related parts and accessories. Each dealer is requested not to bid more than 5 manufacturers for each category. A manufacturer authorization letter is required by the State for each dealer as stated in Section 3.3.3

3.1.1 The State mandates the following product standards:

- 3.1.1.1 Meet or exceed applicable American National Standards Institute (ANSI) standards,
- 3.1.1.2 Meet or exceed the Business and Institutional Furniture Manufacturer's Association (BIFMA) certification
- 3.1.1.3 All furniture products must have specific certificates of compliance

3.1.2 The State desires the following product standards:

- 3.1.2.1 Support Leadership in Energy and Environmental Design (LEED) construction when applicable.
- 3.1.2.2 Cradle to Cradle Certified
- 3.1.2.3 GREENGUARD or GREENGUARD Gold

3.1.3 Items specifically **NOT** included within this solicitation:

- 3.1.3.1 Rented products;
- 3.1.3.2 Sheets, blankets or other linen;
- 3.1.3.3 Paintings, pictures, false plants/trees or other décor not related to functionalfurniture;
- 3.1.3.4 Appliances and electronic equipment except for modular furniture connections and internal wiring approved by the State;
- 3.1.3.5 Flooring including raised flooring;
- 3.1.3.6 Electrical hardwire building connection
- 3.1.3.7 Lab furniture; and
- 3.1.3.8 Window coverings: blinds, drapes, etc.

3.2 Service Requirements;

Below are the applicable services that shall be provided in direct correlation with the categories identified in Scope of Work 3.1 that are being provided by Contractor:

3.2.1 Design:

- 3.2.1.1 The Customer shall have the option to determine whether design service will be performed by the Contractor, or in-house. If necessary design service is performed by agency's in- house staff, the Contractor shall be paid only for programming , furniture specifications, site dimensions and installation drawing(s), if applicable. Design fees for installation drawing(s) shall be priced at the same hourly design rate whether a new installation or an existing installation (reconfiguration type project). It is the Contractor's responsibility to verify the field measuring data and make revisions to the preliminary designs provided by the using agency's in-house staff, on which the installation drawing(s) will be based.
- 3.2.1.2 For the purpose of reconfiguration type projects, an hourly rate shall be applied for the payment of design services. The design fee shall include only actual time spent in re-designing of the workstation(s), time spent doing the CAD drawing(s) and any changes (one change in drawings included) made to the drawing(s) by the Customer's authorized personnel. A complete breakdown of the design fee charges shall be included with the invoice submitted to the requesting Customer. Failure to submit a detailed invoice for payment shall authorize the Customer to withhold payment until clarification is made.

3.2.1.3 The following procedure shall be followed when completing design services within the scope of work of a resultant contract for any requesting Customer:

3.2.1.3.1 Customer's authorized personnel shall contact the Contractor with the request to design, supply and install the furniture systems;

3.2.1.3.2 Contractor shall respond to the initial call within forty-eight (48) hours with setting up a planning meeting with the requesting Customer and shall provide free consultation regarding the project;

3.2.1.3.3 Based on date provided by the Customer, Contractor shall compile a tentative work schedule for the completion of the job that shall include an estimated budget, delivery time and total process time for the project;

3.2.1.3.4 Requesting Customer shall then revise, make corrections if applicable, and approve the tentative work schedule. Once approved, Customer will issue a valid purchase order so that Contractor can start design work.

3.2.2 Installation Services: Contractor shall perform all installations as requested by the Customer. Installation services shall include the following:

3.2.2.1 All receiving, uncrating, inspection, assembly and installation of all furniture and components and the removal of packing and other wastes from the site;

3.2.2.2 Work shall be performed and completed in accordance with a work schedule developed and coordinated with the using agency;

3.2.2.3 All necessary fasteners, fittings, hardware, anchors, or other necessary miscellaneous items, except tools, to successfully install the furniture shall be provided by the Contractor at no additional cost to the Customer;

3.2.2.4 The Contractor shall supervise, direct the work, and be solely responsible for all construction requirements, methods, techniques, sequences and procedures, and for coordinating all portions of the work under the contract;

3.2.2.5 The Contractor shall employ a full-time factory trained supervisor and necessary foremen and assistants, who shall be in attendance on the project site during the entire installation period;

3.2.2.6 House Keeping:

3.2.2.6.1 The Contractor shall keep the job site free from accumulation of refuse, scrap materials and debris at all times. The site shall present a neat and orderly appearance. All materials shall be removed from the site on a daily basis, including loading, cartage, hauling and dumping. State dumpsters are not to be used for disposal of those materials. This will be at the Contractor's expense. Final clearing and cleanup shall be done promptly and properly. If not, the State shall have the right to employ others and charge the cost to the Contractor, after first giving a three (3) working day notice of such intent. Final payment shall be withheld, until the work area is determined acceptable by the State,

3.2.2.6.2 Office areas are to be returned to the original state as before the installation took place, and

3.2.2.6.3 The Contractor shall take precautions during the installation of any product not to damage the premises or the property of the ordering agency. If damages do occur as a result of operations under this contract, the Contractor is responsible for ensuring that the affected area/item(s) are returned/restored to their original condition or the Contractor shall make restitution, as agreed up on by all parties.

3.2.2.7 The Contractor shall be responsible for assuring that all punch list items be corrected within fourteen (14) days after completion of installation.

3.2.2.8 *Modular Furniture Installations* specifically:

3.2.2.8.1 The Contractor shall be responsible for ensuring all panels and pieces are joined correctly and assembled properly according to design specifications. If the Contractor provided design specifications for a workspace that does not meet actual furniture placement or specifications, the Contractor shall correct such differences to the

Customer's satisfaction. Examples of discrepancies include but are not limited to gaps, furniture misalignment, and non-level furniture both vertical and horizontal. The Contractor is responsible for ensuring design dimensions match the installation area dimensions to ensure properfit.

3.2.2.8.2 There are certain facilities across the State where a background check is required for all contractors performing work-This cost is the responsibility of the contractor

3.2.3 Disassembly, Relocation, and Reconfiguration Services:

3.2.3.1 Contractor shall include one (1) hourly rate for disassembly, moving, and reconfiguration services in connection with systems and free standing furniture installations that are not part of the initial purchase and installation. This rate will serve as the basis for the actual cost estimate to be submitted when a specific requirement is requested by a using agency.

3.2.3.2 In the case of reconfiguration projects only the actual working time (in hours) necessary to complete the job shall be invoiced to the Customer.

3.2.3.3 Contractor shall include an hourly rate or piece rate for cleaning chairs and panels

3.2.4 Repair:

Contractor shall include an hourly rate for repair services on existing furniture no older than ten (10) years. If a component is broken on a piece of existing (purchased from a previous contract) furniture this service will allow a Contractor to repair said component for requesting Customer.

3.3 Minimum Requirements;

Along with a quality product, we are looking for Contractors with demonstrated professional integrity, a longstanding reputation in the furniture industry and specific abilities to supply, install and service furniture to the State. In forming a long-term relationship with the Successful Contractor(s), some of the qualities we expect include:

3.3.1 Experience: Dealers with a minimum of five (5) years' experience reselling, distributing and or installing office furniture, demonstrating longstanding relationship with manufacturers, **in the State of Arizona**. Manufacturers bidding directly need to be in business for at least ten (10) years and have a proven strong track record of working with State agencies and cooperatives.

3.3.2 Customer Service: The Contractor(s) shall provide a single, local point of contact (and a backup) to handle questions or problems that may arise throughout the life of a resultant contract. At least one Customer Service Representative must be available during Contractor's operating hours.

3.3.3 Manufacturer Authorization Letters:

3.3.3.1 Dealers are required to submit Manufacturer Authorization documentation for each product line included in their offer. The authorization letters shall be addressed to the State of Arizona State Procurement Office, attention Rocky Advani, State Procurement Manager referencing Solicitation No. ADSPO18-00008152. The letters shall state that the manufacturer will allow said Contractor to distribute their product line for an awarded contract. The letter will also validate the warranty terms in section 3.3.7

3.3.3.2 Manufacturers who elect to submit a direct offer are requested to submit a list of authorized dealers, resellers, installers or distributors whom they will utilize throughout the life of a resultant contract. If the Manufacturer does not have authorized dealers, resellers or distributors and will provide all products and services direct, this shall be noted within offer.

3.3.4 Electronic Catalog: The successful Contractor(s) may be required to submit their items list in an electronic format designated by the State.

3.3.5 General: All furniture, panels and components shall be of a design material and workmanship to withstand hard, daily usage over an extended life with a minimum of maintenance and repair. All panels shall stand erect and rest firmly on their bases to assure safety, good appearance, and provide for a stationary work position. All panels shall be plumb and level. Panels and components shall have identical range of modularity so that they are interchangeable between workstations. The system shall be capable of being installed over finished flooring without penetration or

demarcation or the use of floor fasteners so as to allow for reconfiguration without any floor patching.

3.3.6 Delivery and Storage:

3.3.6.1 Delivery is defined as transportation of the products from the local distribution site to the Customers site. Delivery shall be made by drop shipment or delivery with installation,

3.3.6.2 Contractor(s) shall be able to deliver products and services to all State Agencies and Purchasing Cooperative Members throughout the entire State of Arizona. A timetable for delivery shall be provided by the Contractor at time of quote;

3.3.6.3 Delivery shall be made within 30 days of receipt of a contract release order/purchase order on items in stock. For specialty order items or items not considered normal stock, extended delivery dates may be allowed. In such cases, the extended delivery date shall be provided at the time of quote;

3.3.6.4 Emergency or rush delivery requests by the Ordering Agency that require special shipping and handling charges may be at the Ordering Agency's expense, but only with prior written approval from the Ordering Agency. Approved emergency or rush delivery shipping charges shall be added to an invoice as a separate line item.

3.3.6.4.1 In the event an emergency or rush delivery is required as the result of an error on the Contractor's part all shipping and handling charges shall be the responsibility of the Contractor.

3.3.6.5 Contractors are required to hold product up to 45 days without any additional charge if there are any unforeseen delays outside the control of the purchasing entity

3.3.7 Warranty: The Contractor must warrant the furniture products and materials (excluding fabric) offered under this contract, as follows: Please note that labor will be included under the warranty-The State or Cooperatives will not be charged any additional amount when these items are under warranty

3.3.7.1 Chairs/Seating – Minimum of ten (10) years-structural and mechanical;

3.3.7.2 Free Standing Tables – Minimum of ten (10) years;

3.3.7.2.1 The mechanism for height adjustable tables must be at least seven (7) years

3.3.7.3 Systems / Modular Furniture – Minimum of ten (10) years;

3.3.7.4 Free Standing Desks / Casegoods – Minimum of ten (10) years;

3.3.7.5 Storage - Minimum of ten (10) years;

3.3.7.6 Classroom / Special School Furniture – Minimum of ten (10) years;

3.3.7.7 Architectural Walls – Minimum of ten (10) years; includes product and installation

3.3.7.8 Health Grade Furniture – will vary

3.3.7.9 Public Seating for High Traffic Areas – Minimum of ten (10) years

Products (including parts and components) that fail under normal use as a result of a defect in design, materials, workmanship, or installation shall be repaired or replaced free of charge (including labor, delivery, and installation) throughout the warrantyperiod.

Products that require warranty repair or replacement must be repaired or replaced within a reasonable time frame, or within a time frame that is agreed to in writing. This process is to ensure

sufficient lead time for ordering warranty parts, components or products during the entire warranty period.

EXHIBITS TO THE SCOPE DOCUMENT

No Exhibits apply to the Scope of Work.

End of Section 2-A

SECTION 2-B: Pricing Document

Please fill out the excel spreadsheet for all the Categories you are bidding for-All suppliers are required to fill the first tab-Labor Rates & Delivery Fees-The Discount % in each of the Categories is the % off the Published List Price for the manufacturers catalog-The State pricing is expected to be close to GSA pricing where applicable. Please provide your GSA schedule where applicable for comparative purposes

1.0 Compensation

1.1 FIXED-PRICE. Through the bidding process, a fixed price is determined. This fixed price encompasses all of the contractors costs for the scope of work and represents the total compensation to the contractor

1.2 CONTRACTED LABOR RATES.

2.0 Reserved

2.1 COST-REIMBURSEMENT.

Reserved

3.0 Pricing

3.1 FIXED-PRICE. Through the bidding process, a fixed price is determined. This fixed price encompasses all the contractor's costs for the scope of work and represents the total compensation to the contractor

3.2 UPCHARGES. When required this will be handled on a case by case basis

4.0 Funding

No particular funding considerations apart from paragraph 4.3 of the Uniform Terms and Conditions [*Availability of Funds*] have been identified as of the Solicitation date.

5.0 Invoicing

5.1 INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Agency or Co-Op Buyer at the address indicated on the applicable Order document.

5.2 MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	●
Contractor name and contact information	●
Remit-to address	●
State contract number	●
Order number (typically the ProcureAZ PO #)	●
Invoice number and date	●
Date the items shipped or services performed	●
Applicable payment terms	●
Contract line item number	●
Contract line item description	●
Quantity delivered or performed	●

Line item unit of measure	●
Item price	●
Extended pricing	●
Total invoice amount due	●

5.3 NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for any:

1. Services that have not been authorized.

6.0 Payments

6.1 PAYMENT. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Article 4 of the Uniform Terms and Conditions

6.2 JOINT CHECKS OR DIRECT PAY. applicable Eligible Agency or Co-Op Buyer may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.

6.3 RECOVERY OF OVER-PAYMENT. If applicable Eligible Agency or Co-Op Buyer determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.

6.4 PAYMENTS TO SUBCONTRACTORS. Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from applicable Eligible Agency or Co-Op Buyer applicable to their services.

6.5 AUTOMATED CLEARING HOUSE. applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner from Eligible Agencies, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at:

https://gao.az.gov/afis/vendor-information

7.0 Exhibits to the Pricing Document

None

Please note that in order for Offeror to be susceptible, there must be a $1.00 response under Unit Cost on the Items Tab in ProcureAZ

End of Section 2-B

SECTION 2-C: Special Terms and Conditions

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1	**Acceptance**	"Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services.
1.2	**Accepted Offer**	If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer. If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer. If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer.
1.3	**Arizona Procurement Code; A.R.S.; A.A.C.**	"Arizona Procurement Code, "A.R.S.," and "A.A.C." are each defined in the Instructions to Offerors.
1.4	**Arizona TPT**	"Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at: https://www.azdor.gov/business/transactionprivilegetax.aspx.
1.5	**Attachment**	"Attachment" means any item that: the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO); was attached to an Offer when submitted; and was included in the Accepted Offer.
1.6	**Building Work**	"Building Work" means everything covered by the definitions in A.R.S. § 41-2503 [*Definitions*] of the terms "construction" (para. 4), "maintenance services" (para. 26), and "operations services" (para. 28).
1.7	**Commercial Document**	"Commercial Document" means Section 2-B of Part 2 of the Solicitation Documents, provided that, if there is no such Section in the Contract, then "Commercial Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.
1.8	**Contract**	"Contract" means, collectively, the Acceptance, the Solicitation Documents, the Accepted Offer, all acknowledged Orders, and any Contract Amendments. See paragraph 1.22. The Contract is identified as a "Purchase Order" in ProcureAZ, since that is the terminology used in the software; use of that term in ProcureAZ is not to be confused with the contractual term "Order" defined in paragraph 1.21.

1.9	**Contract Amendment**	"Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. The term "Change Order" in ProcureAZ is to be construed as being synonymous with "Contract Amendment".
1.10	**Contract Terms and Conditions**	"Contract Terms and Conditions" means the Special Terms and Conditions and these Uniform Terms and Conditions taken collectively.
1.11	**Contractor**	"Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with State.
1.12	**Contractor Indemnitor**	"Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors.
1.13	**Co-Op Buyer**	"Co-Op Buyer" means a member of the State Purchasing Cooperative that has entered into a "Cooperative Purchasing Agreement" with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, "Co-Op Buyer" is to be construed as encompassing "eligible procurement unit" under A.A.C. R2-7-101(23). NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, "non-profit organizations" are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.
1.14	**Day**	"Day" means a calendar day unless otherwise specified in a particular context.
1.15	**Eligible Agency**	If the Special Terms and Conditions indicates that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein. If the Special Terms and Conditions indicates that the Contract is a "statewide" contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board.
1.16	**Gratuity**	"Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
1.17	**Indemnified Basic Claims**	"Indemnified Basic Claims" means any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.3.
1.18	**Instructions to Offerors**	"Instructions to Offerors" is Section 1-B of Part 1 of the Solicitation Documents.
1.19	**Materials**	"Materials" has the meaning given in A.R.S. § 41-2503(7) to the extent those things are included in the Work, which, for convenience of reference only, is "… all property, including equipment, supplies, printing, insurance, and leases of property [but] does not include land, a permanent interest in land or real property or leasing space." Materials includes software, except that If software is sold or provided as a service, then to the extent it consists of encoded information or computer instructions it is included in "Materials" and to the extent it is a service it is in "Services".
1.20	**Offer; Initial Offer; Revised Offer; Best and Final Offer (BAFO)**	"Offer," "Initial Offer," "Revised Offer," and "Best and Final Offer" ("BAFO") are each defined in the Instructions to Offerors.
1.21	**Order**	"Order" means the instrument by which State authorizes Contractor to perform some or all of the Work. Whether the Contract will have one Order or many Orders depends the scope of the

Contract and how State will use it. The Special Terms and Conditions provide that information. Any of the following is to be construed as being an "Order":

1. "Release" or "Release Purchase Order" in ProcureAZ;

"task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in ProcureAZ; or

"purchase order" for buying by Co-Op Buyers, if co-op buying applies.

1.22 Part, Section; Exhibit "Part," "Section," and "Exhibit" are each defined in the Instructions to Offerors.

1.23 Person "Person" means any corporation, business, individual, union, committee, club, or other organization or group of individuals.

1.24 Procurement Officer "Procurement Officer" means the person, or his or her designee, who has been duly authorized by State to enter into and administer the Contract and to make written determinations with respect to the Contract. Procurement Officer is as identified on the Acceptance unless subsequently changed by Contract Amendment.

1.25 ProcureAZ "ProcureAZ" means State's official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy document *Technical Bulletin No. 020, ProcureAZ – The Official State eProcurement System*.

NOTE (1): Technical Bulletin No. 020 is available online at:

https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations

NOTE (2): The URL for ProcureAZ itself is:

https://procure.az.gov/

1.26 Scope of Work "Scope of Work" means Section 2-A of Part 2 of the Solicitation Documents.

1.27 Services "Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "… the furnishing of labor, time, or effort by [the] [C]ontractor or [S}ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not include employment agreements or collective bargaining agreements." Services includes Building Work and the service aspects of software described in paragraph 1.19.

1.28 Solicitation; Solicitation Documents "Solicitation" and "Solicitation Documents" are defined in the Instructions to Offerors.

1.29 Special Terms and Conditions "Special Terms and Conditions" are Section 3-A of Part 3 of the Solicitation Documents.

1.30 Specification "Specification" has the meaning given in A.R.S. § 41-2561, which, for convenience of reference only, is "… any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery." Specifications (if any are included in the Contract), are indexed in the Scope of Work and could be bound separately from the other documents forming the Contract.

1.31 State With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Order.

1.32 State Indemnitees "State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.

1.33 State Fiscal Year "State Fiscal Year" means the period beginning each July 1 and ending each June 30.

1.34 Subcontract "Subcontract" means any contract, express or implied, between Contractor and another party or between a Subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any Materials, the performing of any Services, or the carrying out of any other aspect of the Work.

1.35 Subcontractor "Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "… a person who contracts to perform work or render service to … [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ."The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, a Person carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently.

1.36 Uniform Terms and Conditions The "Uniform Terms and Conditions" are made up of this document and whichever of the Appendices are indicated in the Special Terms and Conditions as being applicable.

1.37 Work "Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

2 Contract Interpretation

2.1 Arizona Law The Contract is governed by and is to be interpreted in accordance with the laws of the State of Arizona, including the Arizona Procurement Code, without consideration of conflict of laws principles.

2.2 Usage

1. Where the Contract:
2. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor and all Subcontractors, whether they are first-tier subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subcontractors' respective agents, representatives, and employees" in every instance unless the context plainly requires that it is be a reference only to Contractor as apart from Subcontractors;
3. uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [*Definitions*]. For clarity of intent, any right given to State using "State may" or a like construction denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that: (a) where written "may, at its discretion," the discretion extends to whatever is most advantageous to State; and (b) where written only as "may," the discretion is constrained by what is fair, reasonable, and as accommodating of the respective best interests of both parties as practicable under the circumstances;
4. uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [*Definitions*]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition.
5. uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written "*must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes*" in every instance;

6. uses the term "might" with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and
7. uses the term "will" or the phrases "is to be" or "are to be" with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that "shall" is either unnecessary or irrelevant in that instance.

2.3 Contract Order of Precedence

2.4.1 COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

2.4.2 CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

(a) Contract Amendments;
(b) the Solicitation Documents, in the order:
  (1) Special Terms and Conditions;
  (2) Exhibits to the Special Terms and Conditions;
  (3) Uniform Terms and Conditions;
  (4) Scope of Work;
  (5) Exhibits to the Scope of Work;
  (6) Commercial Document;
  (7) Exhibits to the Commercial Document;
  (8) Specifications; and
  (9) any other documents referenced or included in the Solicitation;
(c) Orders, in reverse chronological order; and
(d) Accepted Offer.

2.4.3 ATTACHMENTS AND EXHIBITS. For clarity of intent, if an item was an Attachment in the Solicitation Documents or an Offer (either Initial, Revised, Best and Final, or Accepted) and was subsequently made into an Exhibit, or its content was incorporated into one of the other Contract documents, then that Attachment no longer exists contractually as an "Attachment" since it has at that point been made into some other Contract document. In every other case, an Attachment and the Offeror data therein remain part of the Accepted Offer for purposes of precedence and contractual effect.

2.4 Independent Contractor

Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

2.5 Severability

Any term or condition deemed or adjudged illegal or invalid is thereby stricken from the Contract and will not affect any other term or condition of the Contract.

2.6 Complete Integration

The Contract, including any documents incorporated into the Contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract.

2.7 No Waiver of Rights

Either party's failure to insist on strict performance of any term or condition of the Contract is not and is not to be construed as being, nor will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of the right of, subsequent enforcement of any term or condition.

3 Contract Administration and Operation

3.1 Term of Contract

The term of the Contract will commence on the date indicated on the Acceptance and continue for the period specified in the Special Terms and Conditions unless canceled, terminated, or permissibly extended. If the Special Terms and Conditions do not specify a period, then the initial term is 1 (one) year. State has no obligation to extend or renew the Contract past the initial term.

3.2 Contract Extensions

State may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the period specified in the Special Terms and Conditions. If the Special Terms and Conditions do not specify a period, then the maximum aggregate term is 5 (five) years.

3.3 Notices and Correspondence

3.3.1 TO CONTRACTOR. Unless stated otherwise in the Special Terms and Conditions, State shall:

(a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding ProcureAZ Vendor Profile; and

(b) address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Accepted Offer, as that address might have been amended during the term of the Contract.

3.3.2 TO STATE. Unless stated otherwise in the Special Terms and Conditions, Contractor shall :

(a) address all Contract correspondence other than format notices to the email address indicated in "Contact Instructions" in the ProcureAZ Summary for State; and

(b) address any required notices to State to Procurement Officer identified as "Purchaser" in the ProcureAZ Summary at the following mailing address:

Arizona Department of Administration
State Procurement Office
100 N 15th Ave., Suite 201
Phoenix, AZ 85007

3.3.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.

3.4 Signing of Contract Amendments

Contractor's counter-signature – or "approval" in ProcureAZ, in the case of a Change Order – is not required to give effect if the Contract Amendment only covers either:

2. extension of the term of the Contract within the maximum aggregate term;
3. revision to Procurement Officer appointment or contact information; or
4. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in *(1)*, *(2)*, and *(3)* above, both parties' signature – or "approval" in ProcureAZ, in the case of a Change Order – are required to give it effect.

3.5 Click-Through Terms and Conditions

Unless expressly stated otherwise in the Special Terms and Conditions, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do

not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

3.6.1 RETAIN RECORDS. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.

3.6.2 RIGHT TO AUDIT. The retained books and records are subject to audit by State during that period. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.

3.6.3 AUDITING. Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.6.1 and 3.6.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.7 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and, unless expressly stated otherwise in the Special Terms and Conditions, for the Work itself.

3.8 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.

3.9 Ownership of Intellectual Property

3.9.1 RIGHTS IN WORK PRODUCT. Unless otherwise provided for in the Special Terms and Conditions, all intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

"Government Purpose Rights" are:

the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;

the right to release or disclose that work product to third parties for any State government purpose; and

the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.

"Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:

4.1. any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product;

4.2. any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and

4.3. except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Special Terms and Conditions, the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.

3.10 Subcontracts

3.10.1 INITIAL LIST. At the time of Contract execution, Contractor's candidate Subcontractors were identified in Attachment 3-C to the Accepted Offer [*Proposed Subcontractors*]. Agreeing to them being included in the Accepted Offer signified Procurement Officer's advance consent for Contractor to enter into a Subcontract with each candidate, which Contractor shall do as promptly as necessary to ensure its ability to carry out the Work in a timely manner.

3.10.2 ADDITIONAL NAMES. Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on Attachment 3-C at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case *(a)* or *(b)*, Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it.

3.10.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

3.11 Non-Discrimination

Contractor shall comply with [Arizona] State Executive Order No. 2009-09 and all other applicable federal and state laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.

3.12 E-Verify Requirements

As required by A.R.S. § 41-4401, Contractor and each Subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each Subcontractor acknowledge that under A.R.S. § 41-4401, State retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works under the Contract to ensure that Contractor or Subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract.

3.13 Offshore Performance of Certain Work Prohibited

Contractor shall only perform those portions of the Services that directly serve State or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Specifications or the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.

3.14 Orders

3.14.1 ORDER SUFFICIENCY. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the code for competitive source selection have been met. An Order issued as set forth in the Special Terms and Conditions that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Order.

3.14.2 ORDER TERMS. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions.

3.14.3 ORDERS ARE OBLIGATORY. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.

3.14.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract in the Special Terms and Conditions and (b) the Contract was created in ProcureAZ as something other than a "Master/ Blanket" type.

3.14.5 NO MINIMUMS OR COMMITMENTS. Unless expressly stated otherwise in the Special Terms and Conditions: (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.

3.14.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.

3.15 Statewide Contract Provisions

If the Special Terms and Conditions indicate that the Contract is for statewide use, then the following provisions apply:

5. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative

6. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).
7. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is specified in the Special Terms and Conditions. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

8. Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

9. Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in ProcureAZ, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in ProcureAZ, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in ProcureAZ, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in ProcureAZ within 3 (three) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in ProcureAZ and if it does so the rejection will be void.
10. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

3.16 Multiple-Use Provisions

If the Special Terms and Conditions indicate that the Contract is for statewide use, then Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a "Release Purchase Order" in ProcureAZ. Orders issued by Co-Op

Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

11. By choosing some or all of the Materials or Services items covered by the Contract for which a price is established in the Commercial Document, then preparing an Order using those prices (e.g., filling out an order form), and sending it to Contractor.

By instructing Contractor to provide a comprehensive proposal of item quantities, combinations, etc., or services hours, personnel, etc., for a defined scope using those established prices as a basis, then validating and negotiating the proposal with Contractor and issuing an Order if and when reaching agreement.

As described in *(2)* above but requesting the proposal from both Contractor and other vendors who are contracted within the applicable scope categories and locations, either sequentially or concurrently, then selecting the proposal or proposals combination that is most advantageous to State.

As described in *(3)* above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones.

When evaluating the proposals under *(3)* and *(4)* above, State may select based on price (for example, a quoted number of hours times the contracted or improved rate plus a fixed amount for incidentals), by experience and qualifications (for example, having an office nearer the required work location), or whatever combination thereof it determines is most appropriate to the work in question.

3.17 Other Contractors

State may undertake with its own forces or award other contracts to the same or other vendors for additional or related work. In such cases, Contractor shall cooperate fully with State's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, services, or records to State or the other vendors. Contractor shall not commit or permit any act that interferes with the State's or other vendors' performance of their work, provided that, State shall enforce the foregoing section equitably among all its vendors so as not impose an unreasonable burden on any one of them.

3.18 Work on State Premises

3.20.1 COMPLIANCE WITH RULES. Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the Contract. Contractor is reminded that violation of the prohibition under A.R.S. § 13-1502 against possession of weapons on State's property by anyone for whom Contractor is responsible is a material breach of contract and grounds for termination for default.

3.20.3 PROTECTION OF GROUNDS AND FACILITIES. Contractor shall deliver or install the Materials and perform the Services without damaging any State grounds or facilities. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*].

3.19 Advertising, Publishing and Promotion of Contract

Contractor shall not advertise, promote, or otherwise use information concerning the Contract for commercial benefit without the prior written approval of Procurement Officer, which approval Procurement Officer may withhold at his or her discretion.

4 Costs and Payments

4.1 Payments

4.1.1 PAYMENT DEADLINE. State shall make payments in compliance with Arizona Revised Statues Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Commercial Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Commercial Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in ProcureAZ and provided a current IRS Form W-9 to State unless excused by law from providing one.

4.1.2 PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Accepted Offer.

4.2 Applicable Taxes

4.3.1 CONTRACTOR TO PAY ALL TAXES. State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Commercial Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

4.3.2 TAX INDEMNITY. Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

4.3 Availability of Funds

By A.R.S. § 35-154, every State payment obligation under the Contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the Contract, State may terminate the Contract at the end of the period for which funds are available, or, at State's discretion, allow appropriate amendment to the Contract. No liability will accrue to State if it exercises the foregoing right or discretion, and State will have no obligation or liability for any future payments or for any damages as a result of having exercised it.

5 Contract Changes

5.1 Contract Amendments

The Contract is issued for State under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.

5.2 Assignment and Delegation

5.2.1 IN WHOLE. Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State

satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.

5.2.2 IN PART. Subject to paragraph 3.10 [*Subcontracts*] with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.

6 Risk and Liability

6.1 Risk of Loss

Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

6.2 Contractor Insurance

Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The Insurance Requirements herein are minimum requirements for this Contract and in no way, limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Blanket Contractual Liability – Written and Oral	$1,000,000
Damage to Rented Premises (Fire Legal Liability)	$50,000
Each Occurrence	$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

Combined Single Limit (CSL)	$1,000,000

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$1,000,000
Disease – Each Employee	$1,000,000
Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor that is exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

4. Professional Liability (Errors and Omissions Liability)

Each Claim	$ 2,000,000
Annual Aggregate	$ 2,000,000

a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, the Contractor warrants that any retroactive date under the Policy shall precede the effective date of this Contract and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

b. The Policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Contract.

ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

a. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

b. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be electronically submitted via email to AZStateContractCOI@azdoa.gov and rocky.advani@azdoa.gov **(State of Arizona, State Procurement Office, 100 N 15th Ave, Suite 402, Phoenix AZ 85007).**

ACCEPTABILITY OF INSURERS: Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
3. All certificates required by this Contract shall be sent directly to **(Rocky Advani, 100 N 15th Ave, Suite 402, Phoenix AZ 85007)**. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum insurance requirements identified above. The State reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

6.3 Basic Indemnification

6.3.1 CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless State Indemnitees from Indemnified Basic Claims that: (a) are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor Indemnitor; (b) arise out of or are recovered under

worker compensation laws; and/or (c) arise out of a Contractor Indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor Indemnitors shall indemnify the relevant State Indemnitees from and against Indemnified Basic Claims in all instances except where the Indemnified Basic Claim arises solely from those State Indemnitees' own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for an on behalf of the other Contractor Indemnitors with respect to State Indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor Indemnitors. In consideration of the award of the Contract by a State Indemnitee, Contractor hereby waives all rights of subrogation against State Indemnities for losses arising from the Work.

6.4 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
3. State may elect to participate in such action at its own expense; and
4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.7 [*Performance in Public Health Emergency*], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties

shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

6.6 Third Party Antitrust Violations

Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7 Warranties

7.1 Conformity to Requirements

Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.

7.2 Contractor Personnel

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.3 Intellectual Property

Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

7.4 Compliance with Laws

Contractor warrants that the Materials and Services do and will continue to comply with all applicable federal, state, and local laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the non-compliance.

7.5 Licenses and Permits

Contractor warrants that it will maintain all licenses required under paragraph 3.7 [*Contractor Licenses*] and all required permits valid and in force.

7.6 Operational Continuity

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.2 [*Assignment and* Delegation] that expressly recognizes the event.

7.7 Performance in Public Health Emergency

Contractor warrants that it will:

12. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession

and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and

13. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.5 [*Force Majeure*] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

7.8 Lobbying

7.11.1 PROHIBITION.

Contractor warrants that:

it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and

upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.

Contractor shall implement and maintain adequate controls to assure compliance with *(a)* above.

Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.

7.11.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.9 Survival of Warranties

All representations and warrants made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

8 State's Contractual Remedies

8.1 Right to Assurance

If State in good faith has reason to believe that Contractor does not intend to, or is unable to, perform or continue performing under the Contract, Procurement Officer may demand that Contractor promptly provide written assurance of intent to perform. Failure by Contractor to provide the assurance within the time specified may be the basis for terminating the Contract or for State to exercise any other remedy available to it under the Contract or laws.

8.2 Stop Work Order

The State may at any time require Contractor to stop all or any part of the Work by written order. Upon receipt of a stop order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to State associated with the portions of the Work covered by the order. If Contractor incurs losses, it may make a claim under Article 10.

8.3 Non-exclusive Remedies

State's rights and remedies under the Contract are not exclusive.

8.4 Nonconforming Tender

The Materials provided and Services performed must comply fully with the Contract, and providing Materials or performing Services or any portion thereof that do not comply fully

constitutes a breach of contract, in which event State will be entitled to exercise any remedy available to it under the Contract or laws.

8.5 Right of Offset

State is entitled to offset against any sums due Contractor any expenses or costs State incurs or damages it has assessed against it concerning Contractor's non-conforming performance or failure to carry out the Work, including any expenses, costs, and damages to which it is entitled by the Contract or laws.

9Contract Termination

9.1 Termination for Conflict of Interest

By A.R.S. § 38-511, State may terminate the Contract within 3 (three) years after the effective date without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of State is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Contractor receives State's written notice of the termination unless the notice specifies a later date.

9.2 Gratuities

State may, by written notice, terminate the Contract, in whole or in part, if State determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of State for the purpose of influencing the outcome of the procurement or the administration of the Contract or any favorable treatment concerning the Contract or performance of the Contract. State, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of 3 (three) times the value of the Gratuity offered by Contractor.

9.3 Suspension or Debarment

State may, by written notice to Contractor, terminate the Contract immediately if State discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. State has taken Contractor's submittal of the Accepted Offer and will take its performance under the Contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify Procurement Officer immediately.

9.4 Termination for Convenience

State may terminate the Contract when in the best interest of State, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the Contract. Upon receipt of State's written termination notice, Contractor shall stop work as directed in the notice, notify all Subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to State. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the Contract will become State's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination, provided that, the cost principles and procedures in A.A.C. R2-7-701 are to be applied.

9.5 Termination for Default

In addition to the rights reserved to it under the Contract, State may terminate the Contract in whole or in part due to Contractor's failure to: (a) comply with any term or condition of the Contract; (b) obtain and maintain all required insurance policies, bonds, licenses, and permits; or (c) make satisfactory progress in carrying out the Work. Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the Contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become State's property, and Contractor shall deliver all of it immediately on demand. State may, following termination of the Contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to State for any excess cost State incurs in procuring such substitutes.

9.6	**Continued Performance Required**	Contractor shall continue to perform in accordance with the requirements of the Contract up to the effective date of any termination, as directed by State in the notice.

10 Contract Claims

10.1	**Claim Resolution**	Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.
10.2	**Mandatory Arbitration**	In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.

11 General Provisions for Materials

11.1	**Applicability**	Article 11 applies to the extent the Work is or includes Materials.
11.2	**Off-Contract Materials**	Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders; State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.
11.3	**Compensation for Late Deliveries**	Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them.
11.4	**Indicate Shipping Costs on Order**	Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one).
11.5	**Current Products**	Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.
11.6	**Maintain Comprehensive Selection**	Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if applicable.
11.7	**Additional Products**	State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of *(b)* typically

requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products.

11.8 Discontinued Products

If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones (with demonstration being as described in subparagraph 11.7).

11.9 Forced Substitutions

Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.

11.10 Recalls

In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.

11.11 Delivery

11.11.1 PRICING. Unless stated otherwise in the Commercial Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.o.b. Origin, Contractor's Facility" under FAR 52.247-30.

11.11.2 LIABILITY. Unless stated otherwise in the Commercial Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.o.b. Destination, Within Consignee's Premises" under FAR 52.247-35.

11.11.3 PAYMENT. Unless stated otherwise in the Commercial Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately.

11.12 Delivery Time

Unless stated otherwise in the Commercial Document generally or in the applicable Order particularly, Contractor shall make delivery within 7 (seven) business days after receiving each Order.

11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically:

1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
2. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
3. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
4. if the Contract is for unrestricted statewide use, then:

    a. Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;

    b. if the Pricing Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions.

11.15 Materials Acceptance

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

11.16 Correcting Defects

Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials.

1. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.
2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

3. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within 30 (thirty) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancellation

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

1. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus 1 (one) additional business day;
2. reimburse Contractor for:
   a. its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus 1 (one) additional business day; and
   b. the cost of any obligations it incurred as of the cancellation effective date plus 1 (one) additional business day that demonstrably cannot be canceled, or that have pre-established cancelation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and
3. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancelation notice plus 1 (one) business day or for any lost profits or opportunity.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

11.20 Hazardous Materials

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup.

12 Data and Information Handling

12.1 Applicability

Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.

12.2 Data Protection and Confidentiality of Information

Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

12.3 Personally Identifiable Information.

Without limiting the generality of paragraph 12.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information*; and

2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P* 2180*.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf

NOTE (2): For convenience of reference only, the GSA directive is available at:

http://www.gsa.gov/portal/directive/d0/content/658222

12.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;
2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in *(1)* above; and
3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in *(1)* above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.

NOTE: For convenience of reference only, the Privacy Rule is available at:

http://www.hhs.gov/hipaa/for-professionals/privacy/index.html

12.5 Section 508 Compliance

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 18-131 and § 18-132 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

End of Section 2-C

SECTION 2-D: Uniform Terms and Conditions

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1	**Attachment**	"Attachment" means any item the solicitation requires the Offeror to submit as part of the Offer.
1.2	**Contract**	"Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
1.3	**Contract Amendment**	"Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
1.4	**Contractor**	"Contractor" means any Person who has a Contract with the State.
1.5	**Days**	"Days" means calendar days unless otherwise specified.
1.6	**Exhibit**	"Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
1.7	**Gratuity**	"Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
1.8	**Materials**	"Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
1.9	**Procurement Officer**	"Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
1.10	**Services**	"Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "… the furnishing of labor, time, or effort by [the] [C]ontractor or [S}ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not include employment agreements or collective bargaining agreements." Services includes Building Work and the service aspects of software described in paragraph 1.19.
1.11	**State**	"State" means the State of Arizona and Department or Agency of the State that executes the Contract.
1.12	**State Fiscal Year**	"State Fiscal Year" means the period beginning with July 1 and ending June 30.
1.13	**Subcontract**	"Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

2.0 Contract Interpretation

2.1	**Arizona Law**	The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
2.2	**Implied Terms**	Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
2.3	**Contract Order of Precedence**	In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below: 2.3.1. Special Terms and Conditions; 2.3.2. Uniform Terms and Conditions; 2.3.3. Statement or Scope of Work; 2.3.4. Specifications; 2.3.5. Attachments; 2.3.6. Exhibits; 2.3.7. Documents referenced or included in the Solicitation.
2.4	**Relationship of Parties**	The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
2.5	**Severability**	The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
2.6	**No Parole Evidence**	This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
2.7	**No Waiver**	Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3.0 Contract Administration and Operation

3.1	**Records**	Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
3.2	**Non-Discrimination**	The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
3.3	**Audit**	Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
3.4	**Facilities Inspection**	The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or

	and Materials Testing	materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
3.5	**Notices**	Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
3.6	**Advertising, Publishing and Promotion of Contract**	The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
3.7	**Property of the State**	Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
3.8	**Ownership of Intellectual Property**	Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
3.9	**Federal Immigration and Nationality Act**	The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
3.10	**E-Verify Requirements**	In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 Offshore Performance of Work Prohibited.

Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4.0 Costs and Payments

4.1 Payments

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State fiscal year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the current State fiscal year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements

5.0 Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without

effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6.0 Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall **not** include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7.0 Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Compliance with Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6 Survival of Rights and Obligations after Contract Expiration or Termination

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8.0 State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non-exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9.0 Contract Termination

9.1 Cancellation for Conflict of Interests

Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2 Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5 Termination for Default

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10.0 Contract Claims

10.1 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11.0 Arbitration

11.1 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12.0 Comments Welcome

12.1 Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 402, Phoenix, Arizona, 85007.

End of Section 2-D

End of Part 2

Solicitation Amendment

Solicitation No.:	ADSPO18-00008152	
Amendment No.: 1	Date: May 21, 2018	

State of Arizona
State Procurement Office
100 N. 15th Avenue
Phoenix, AZ 85007

The State of Arizona would like to include under the current Scope of Work a vendor provided dedicated facility for managing, storing and providing logistics for the State's excess furniture assets. The vendor needs to utilize and demonstrate a web based technology to track the furniture and communicate in real time

The minimum requirements for the vendor are

Experience- Vendor with a minimum of 10 years proven experience of managing warranty, inventory, and logistics from the warehouse

Type - Warehouse needs to have racking systems, climate controlled, have a fire protection system, be monitored and alarmed

Size-The warehouse needs to be at least 50,000 sq. feet

References- At least 3 references need to be provided with current clients

Insurance- The insurance requirements will be the same as in Section 6.2-Contractor Insurance of the RFP

Requested Data	Amount
Inventory Data Capture / Maintenance	$X/ hr
Warehouse Storage Rates	$X/ sq foot
Product Handling	$X/ hr
Delivery or Pickup of Product	$X/ hr
Truck and Driver Rate	$X/ hr

No other changes have been made to this solicitation and the current due date remains to be June 15, 2018 at 3PM.

ACKNOWLEDGEMENT

ALL SOLICITATION SPECIFICATIONS, TERMS AND CONDITIONS AND REQUIREMENTS REMAIN UNCHANGED. THIS DOCUMENT IS FOR INFORMATIONAL PURPOSES ONLY AND REQUIRES NO APPROVAL.

	Solicitation Amendment		State of Arizona State Procurement Office 100 N. 15th Avenue Phoenix, AZ 85007
	Solicitation No.: ADSPO18-00008152		
	Amendment No.: 2	Date: June 1, 2018	

A. **For Category 6 Only**-Classroom / Special School Furniture-In lieu of mandatory minimum requirements listed for individual product categories, all education furniture products offered in Category 6 in response to this RFP shall comply with one of the two options:

1. Meet or exceed applicable test and performance standards prescribed in ANSI/BIFMA most current product safety and performance standards, guidelines, and testing.
2. If your firm does not perform durability, performance, and safety testing you may submit as an alternative a warranty document that exceeds, at a minimum, the mandatory minimum warranty period by 50%. As an example the mandatory minimum warranty period for school desks is 10 years. If your firm does not perform durability, performance, and safety testing you may submit as a substitute a 15-year warranty for desks.

B. **Freight Charges** – please use updated price file to indicate if freight is included or not-Also a column for warranty term has now been included-please put the number of years against each line item

C. **Returns** – Section 11.17 Page 31 of 42 of RFP- This will be changed to a partial credit from a full credit and restocking fees can be charged in certain instances as long as the end product is defect free-All other terms remain the same

D. **Due Date**- This bid is being extended from June 15th 2018 at 3PM to June 22nd 2018 to 3PM

Please continue to post any questions in the Q&A tab

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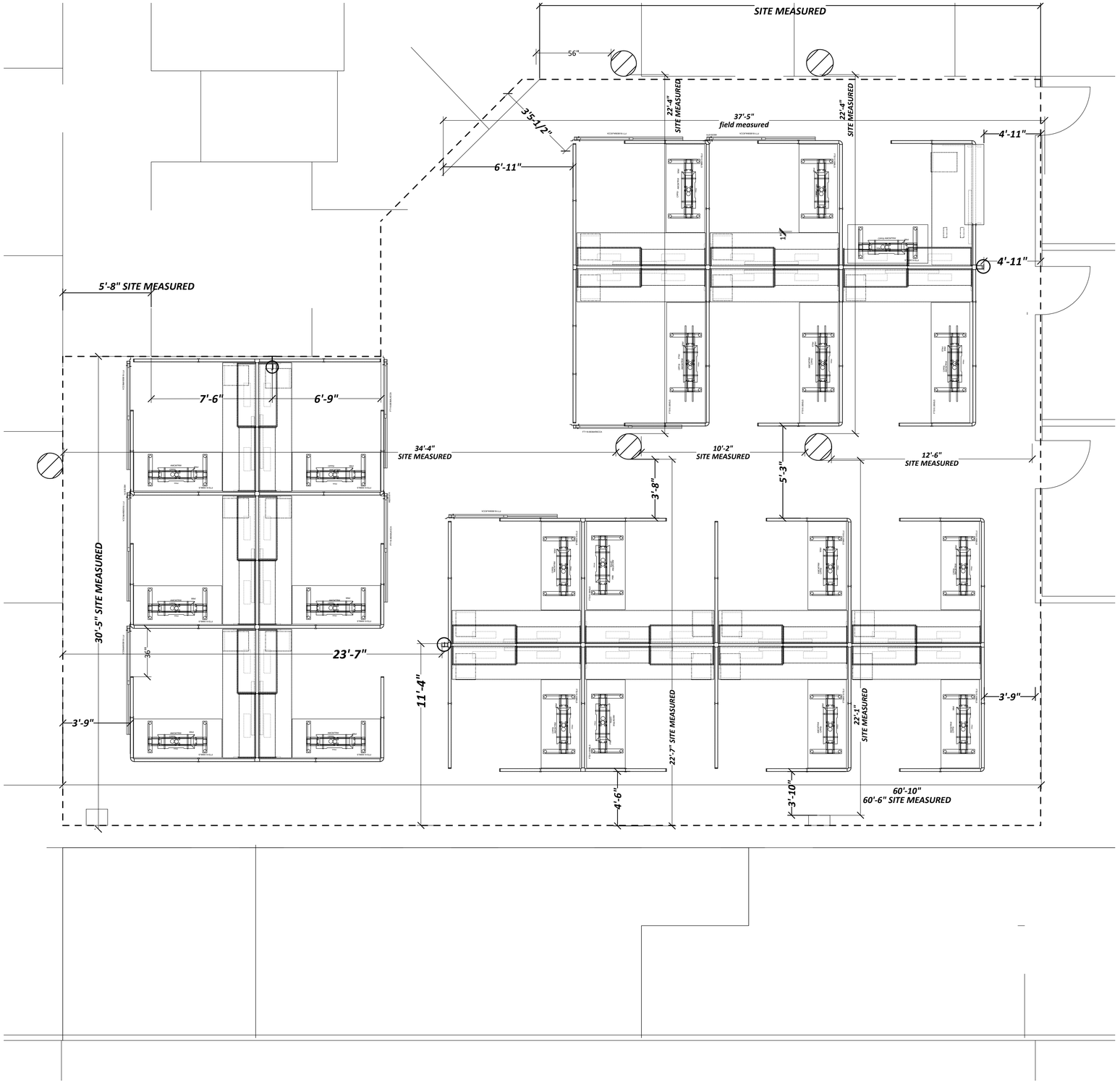
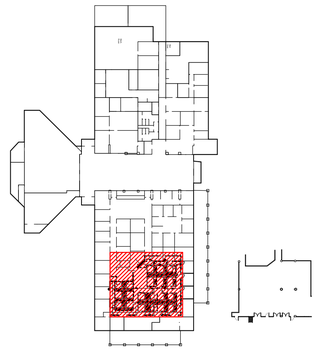




FINAL

Goodmans

CITY OF FLAGSTAFF - CITY HALL
ADDRESS
211 W. ASPEN AVE; FLAGSTAFF AZ, 86001

WORKSTATIONS

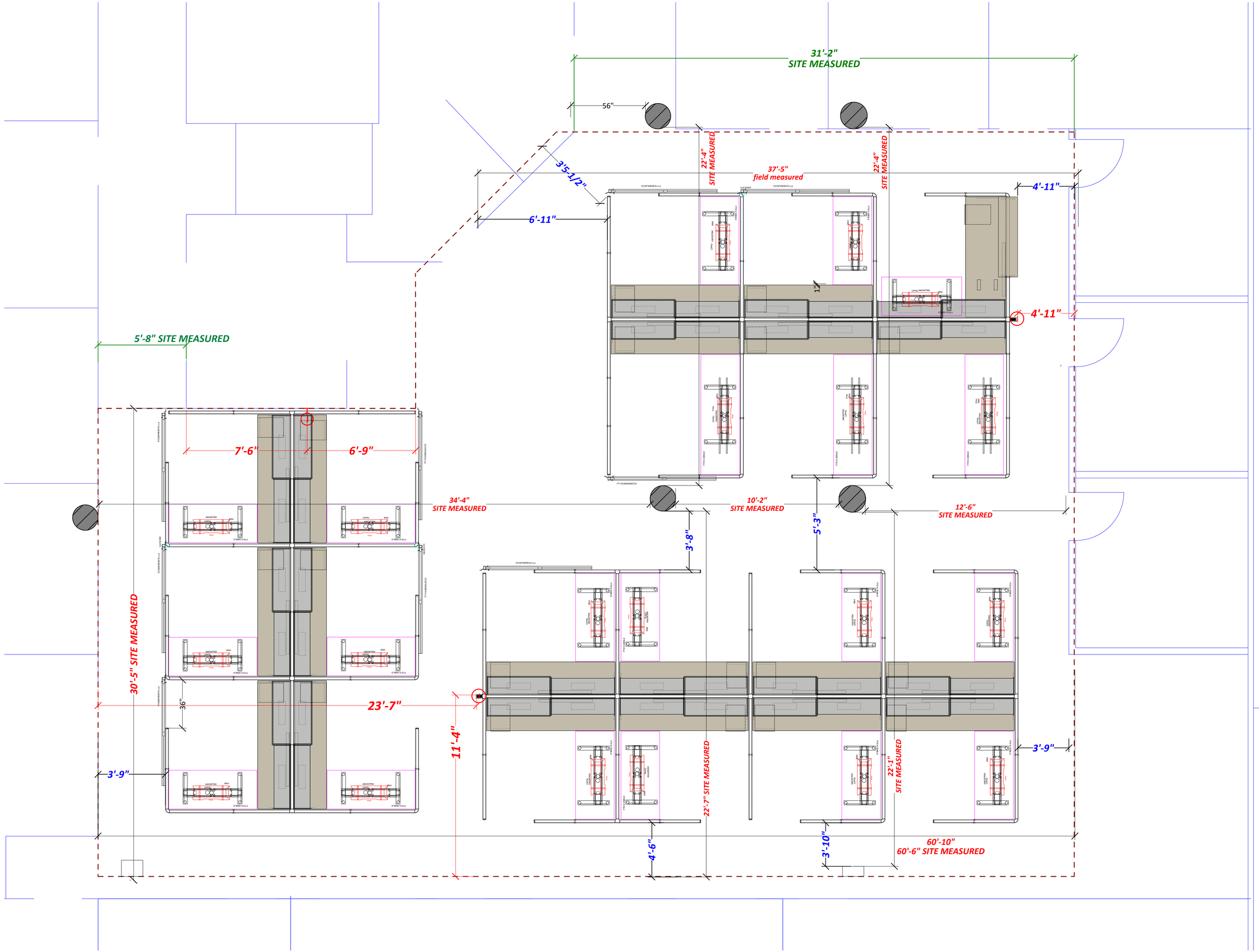
NOTE: ALL PLANS, DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF GOODMANS, AND MAY NOT BE REPRODUCED WITHOUT THE WRITTEN CONSENT OF GOODMANS. ALL MEASUREMENTS ARE SUBJECT TO VERIFICATION BY THE CONTRACTOR. NOTIFY GOODMANS IN THE EVENT OF DISCREPANCIES.

CORE#: 167768

DATE: 6/27/2023

DWN: Eric Ripes

#	DESCRIPTION	DATE	BY
1	Add (4) Rolling Doors	6/13/2023	ER
2	Revise to (7) Rolling Doors	6/26/2023	ER



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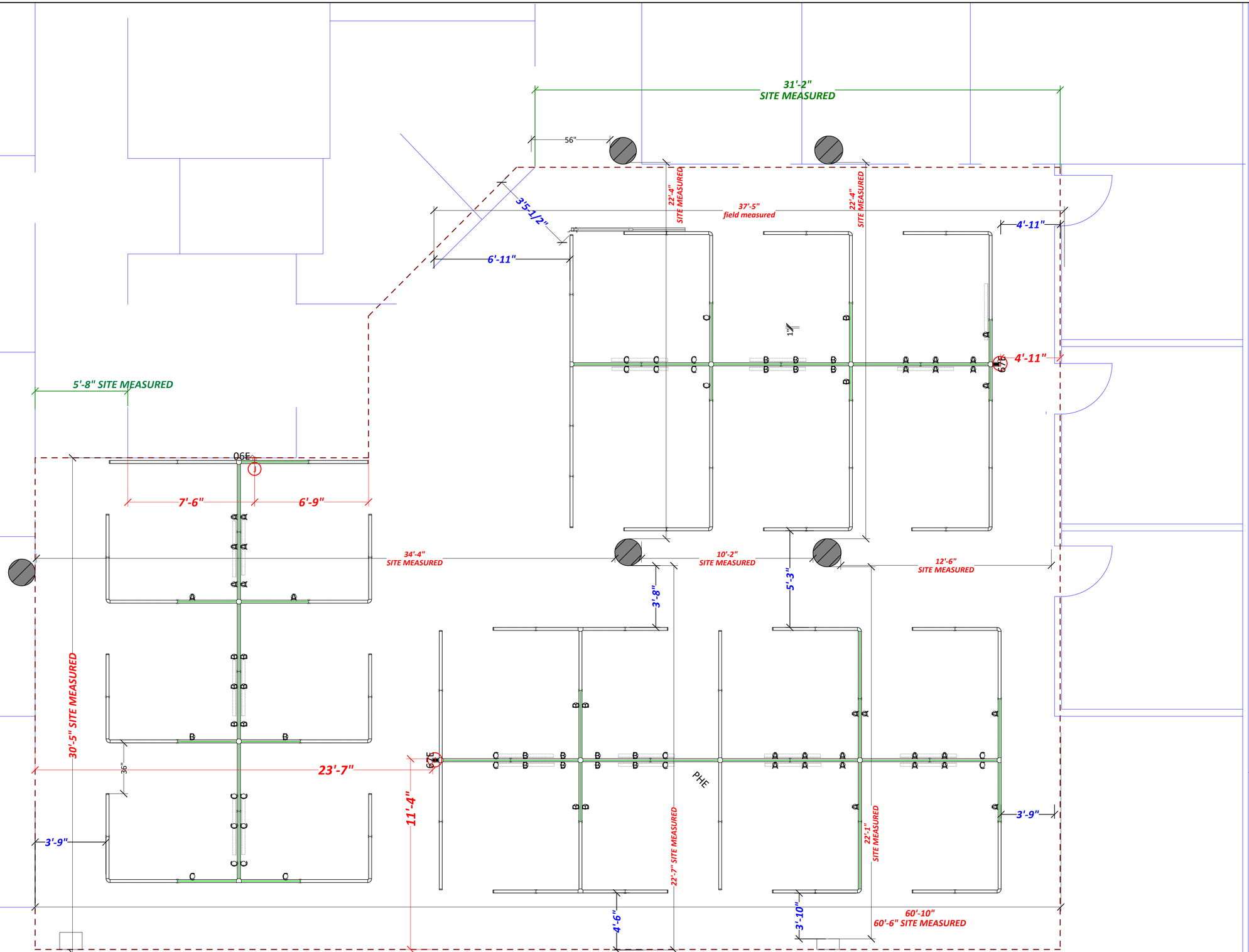

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SUGGESTED ELECTRICAL

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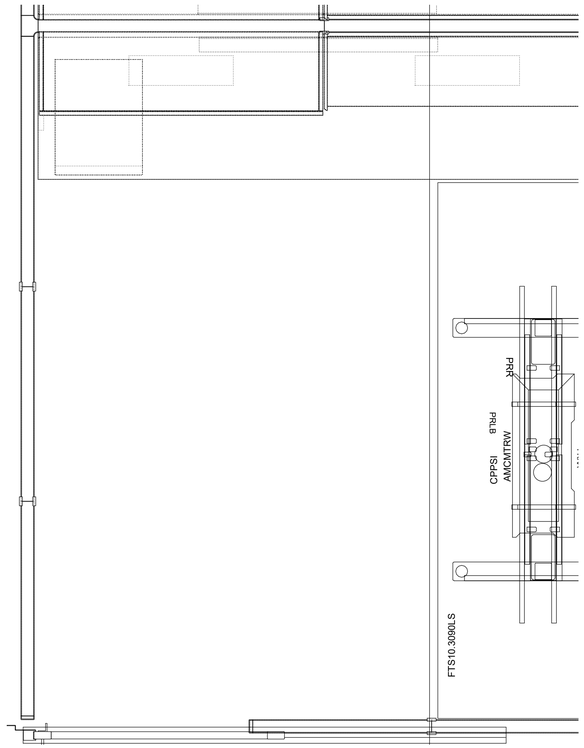
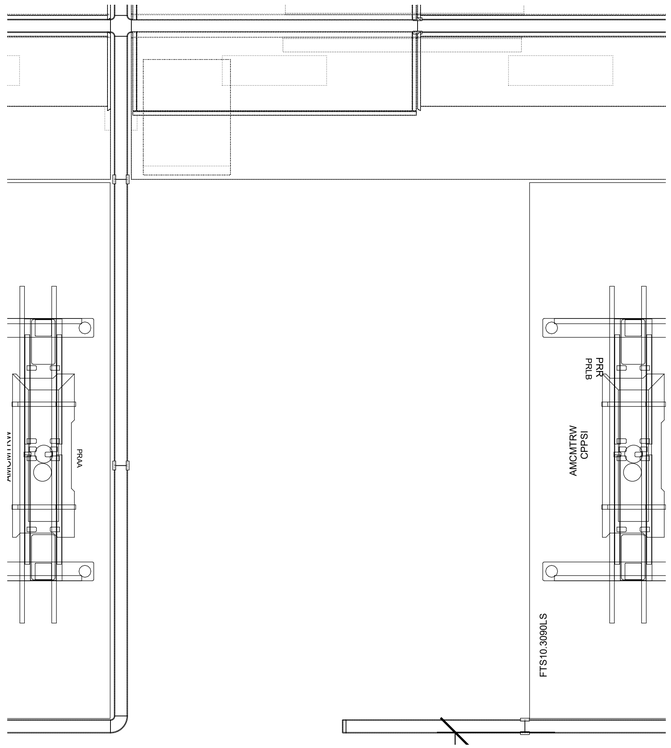


MANAGER STATION WITH ROLLING DOOR
SCALE: 1" = 1'-0"



MANAGER STATION (1) W/O ROLLING DOOR
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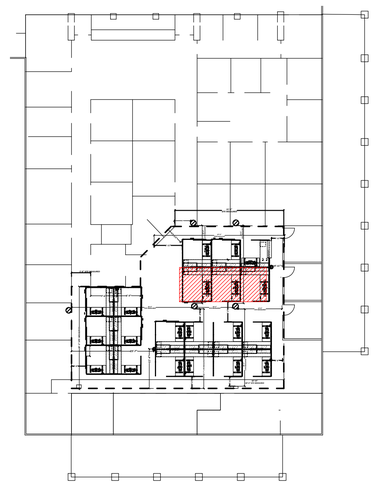

KEY PLAN
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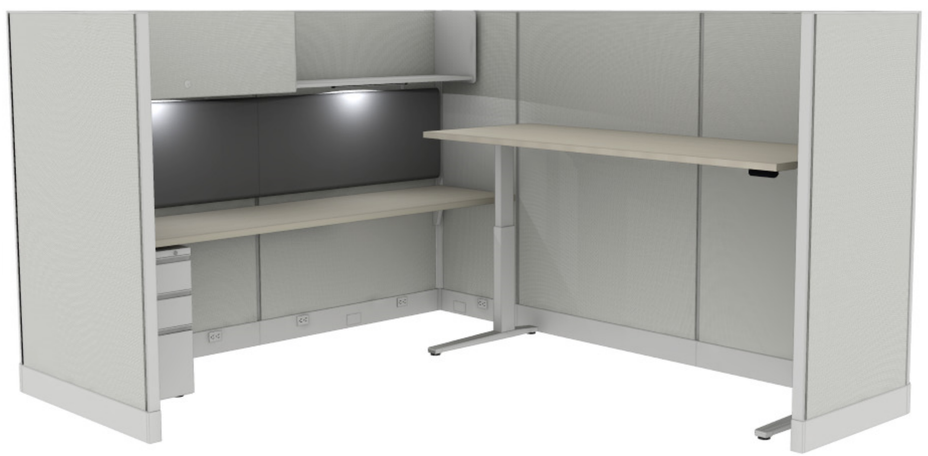



THE DOOR IS SHOWN BLACK SINCE IT'S IS A NON-STANDARD ITEM. ACTUAL DOOR FRAME IS FOLKSTONE GREY WITH FROSTED ACRYLIC FRONT

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MANAGER STATIONS

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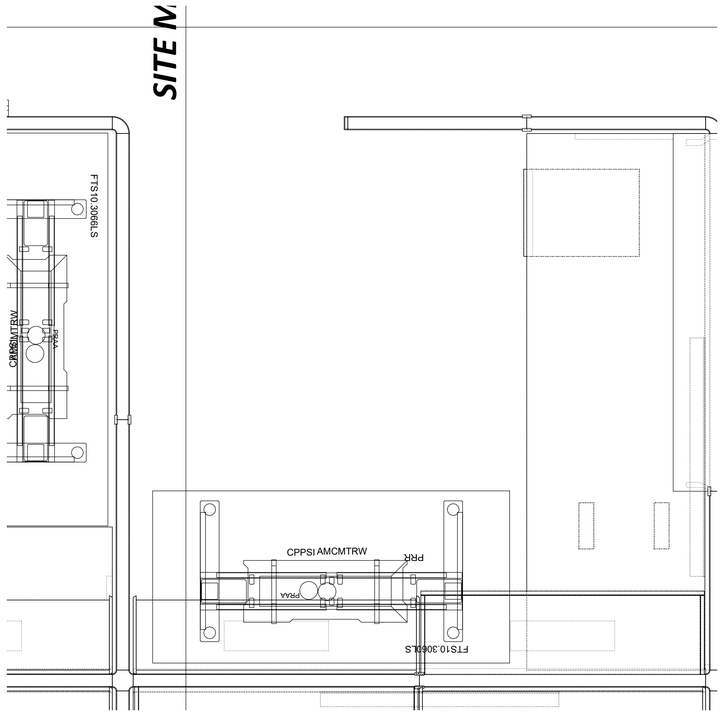

RECEPTION
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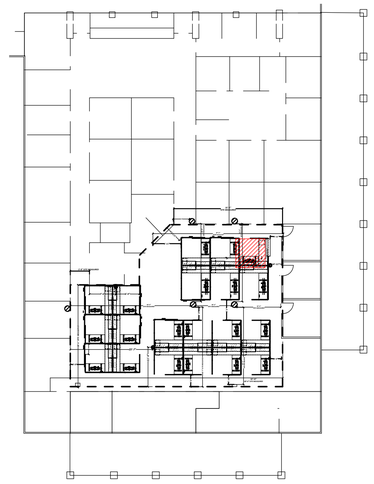

KEY PLAN
SCALE: NTS



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RECEPTION

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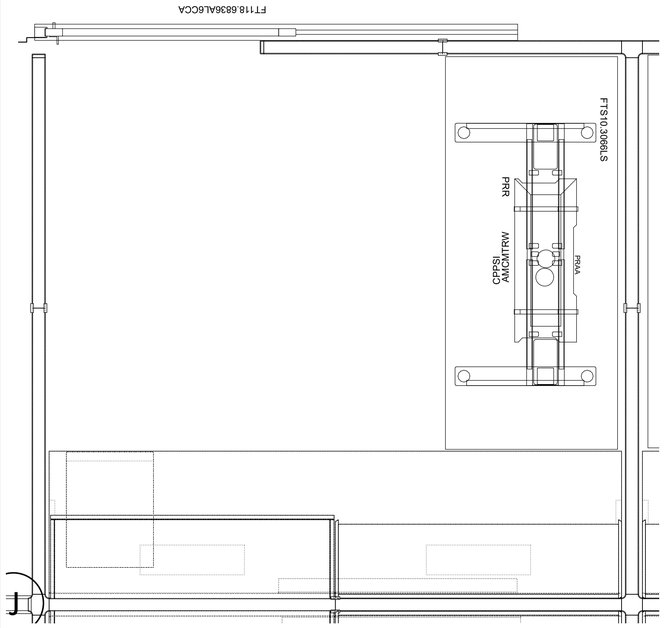
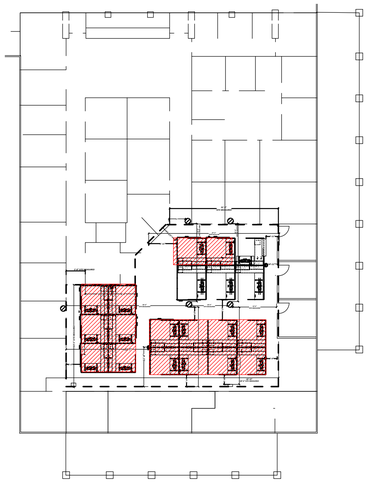


STANDARD STATIONS WITH ROLLING DOORS
SCALE: 1" = 1'-0"





KEY PLAN
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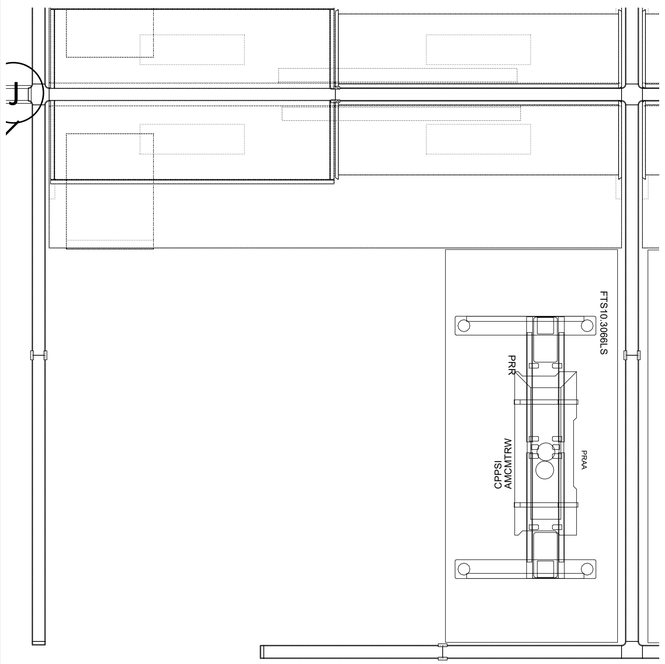

STANDARD STATIONS (8) W/O ROLLING DOORS
SCALE: 1" = 1'-0"



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STANDARD WORKSTATIONS

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10. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Brandi Suda, Finance Director
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Ordinance No. 2023-15: An ordinance levying upon the assessed valuation of the property within the City of Flagstaff, Arizona, subject to taxation a certain sum upon each one hundred dollars ($100.00) of valuation sufficient to raise the amount estimated to be required in the Annual Budget, less the amount estimated to be received from other sources of revenue; providing funds for various bond redemptions, for the purpose of paying interest upon bonded indebtedness and providing funds for general municipal expenses, all for the Fiscal Year ending the 30th day of June 2024. **(Primary and secondary property tax levies for FY 2023-2024)**

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-15 by title only for the final time
2) City Clerk reads Ordinance No. 2023-15 by title only (if approved above)
3) Adopt Ordinance No. 2023-15

Executive Summary:

The City Council is required to fix and levy the amount to be raised from property taxation after the adoption of the final budget, per A.R.S. Section 42-17151. The final budget is anticipated to be adopted on June 20, 2023.

Financial Impact:

The City is proposing a flat primary property tax levy of $7,043,086 on existing properties, plus a levy of $25.448 on new construction, for a total primary property tax levy in Fiscal Year (FY) 2023-2024 of $7,159,580. The primary property tax rate to support this levy is $0.66634 per $100 of assessed valuation (lower than the prior fiscal year). The proposed levy is less than the maximum allowable primary property tax levy allowed for FY 2023-2024, which is $7,748,836.

The City is proposing a secondary property tax levy of $8,603,114 on existing properties, plus a levy of $30,688 on new construction, for a total secondary property tax levy in FY 2023-2024 of $8,633,802. The proposed secondary property tax rate is 0.8000 per $100 of net assessed valuation (same as the prior fiscal year).

Policy Impact:

Adoption of the proposed property tax levies will generate revenues to help fund the community needs as identified in the FY 2023-2024 Final Budget and policies reflected therein.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

The adoption of the Annual Budget and Financial Plan provides direction and financial resources to support the Key Community Priorities and Objectives, Regional Plan and Carbon Neutrality Plan. The property tax adoption is part of the overall City budget adoption.

Has There Been Previous Council Decision on This:

Property tax information has been discussed or presented at the following public meetings:

- January Budget Retreat on January 20, 2023
- February Budget Retreat on February 2, 2023 and February 3, 2023
- Capital Improvement Program Budget Retreat on April 7, 2023
- Council Budget Work Session on April 27, 2023 and April 28, 2023
- Tentative Budget Adoption on June 6, 2023

Options and Alternatives:

1) Adopt the primary and secondary property tax rates as proposed.
2) Adopt lower primary and secondary property tax rates than proposed.
3) Adopt higher tax rates than proposed, however, this action may be barred by Truth in Taxation Notice publication deadlines or other legal considerations.

Background/History:

Primary property tax revenues may be used for all purposes. Primary property tax levies are limited, per A.R.S. Section 42-17051. The City has the ability to increase the amount received from the primary property tax levy by a maximum of 2% each year excluding new construction. The maximum allowable increase for FY 2023-2024 is 8.0%. FY 2023-2024 proposed primary property tax levy is set at $7,159580, which is less than the maximum allowable levy of $7,748,836.

Primary property tax levies are also subject to "Truth in Taxation" notice and hearing requirements, per A.R.S. Section 42-17107. On or before February 10 of each year, the county assessor must transmit to each city and town an estimate of the total net assessed valuation of the city, including new property added to the tax roll. If the proposed primary tax levy amount, excluding amounts attributable to new construction, is greater than the levy amount in the previous year, the city must follow the "Truth in Taxation" procedures. It is important to note that it is the levy amount and not the rate which triggers the "Truth in Taxation" procedures. The proposed FY2023-2024 primary tax levy amount did not trigger the "Truth in Taxation" procedures.

Secondary property tax revenues may only be used by cities and towns to retire the principal and interest or redemption charges on general obligation bonds issued to pay for capital projects. Secondary property tax levies are not limited.

The adoption of the property tax levy is the final step in the entire budget approval process.

Key Considerations:

The key dates for budget and property tax levy adoption have been determined and have been followed throughout this process. The County will adopt the property tax levy as approved by the City in August 2023.

Expanded Financial Considerations:

The City is budgeting primary property tax revenues of $7,096,000 in its FY 2023-2024 Budget. This budgeted amount is less than the levy amount because the City is allowing for approximately 1.0% in bad debt (taxes not able to be collected). The City anticipates an overall 0.4**%** increase in primary property tax revenues in FY 2023-2024, due to the increase from new construction (properties added to tax roll). Primary property tax revenues may be used for any general purpose use of the City government. Statutorily, the maximum allowable primary property levy for FY 2023-2024 is $7,748,836

The City has budgeted a total of $8,633,802 in FY 2023-2024 secondary property tax, an approximate 5.2% increase over the FY 2022-2023 budget ($8,206,714). The increase is directly related to the increased assessed valuation (increase in property values) and new construction. Secondary property tax revenues are used to pay general obligation debt issued for City capital projects.

Five years of historical data is shown below:

Property Tax Rates	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023	FY 2023-2024 Proposed
Primary	0.7933	0.7510	0.7186	0.6954	0.6634
Secondary	0.8366	0.8000	0.8000	0.8000	0.8000
Total	1.6299	1.5510	1.5186	1.4954	1.4634

Primary property taxes account for 6.3% of the General Fund revenues budgeted for FY 2023-2024.

Community Benefits and Considerations:

Primary property taxes help support a number of City services including public safety, parks and recreation, other public works services, and general administrative and management functions within the City.

Secondary property taxes support the debt service payment on numerous city capital projects including Aquaplex, Fire Stations, Open Space, numerous street/utility projects, Forest Restoration, Core Services Facility, Courthouse, infrastructure and housing projects.

Community Involvement:

Inform & Involve: Budget legal schedules were published in the June 8, 2023, and June 15, 2023, Arizona Daily Sun to allow for additional community review. In addition, the legal and other budget schedules were made available at City Hall, and on the official city website or by request. At a public hearing on June 20, 2023, the final budget adoption and the property tax levy is open for public comment and allows citizens to provide input. The final opportunity for public input on the tax levy will be at the July 3, 2023, Council Meeting.

Attachments: Ord. 2023-15

ORDINANCE NO. 2021-15

AN ORDINANCE LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY OF FLAGSTAFF, ARIZONA, SUBJECT TO TAXATION A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS ($100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, LESS THE AMOUNT ESTIMATED TO BE RECEIVED FROM OTHER SOURCES OF REVENUE; PROVIDING FUNDS FOR VARIOUS BOND REDEMPTIONS, FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS AND PROVIDING FUNDS FOR GENERAL MUNICIPAL EXPENSES, ALL FOR THE FISCAL YEAR ENDING THE 30TH DAY OF JUNE, 2024

RECITALS:

WHEREAS, by the provisions of State law, the ordinance levying taxes for fiscal year 2023-2024 is required to be finally adopted not later than the third Monday in August; and

WHEREAS, the County of Coconino is the assessing and collecting authority for the City of Flagstaff.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. There is hereby levied on each one hundred dollars ($100.00) of the assessed value of all property, both real and personal within the corporate limits of the City of Flagstaff, except such property as may be by law exempt from taxation, a primary property tax rate of 0.6634 for the fiscal year ending on the 30th day of June 2024. If this tax rate exceeds the maximum levy allowed by law, the Board of Supervisors of the County of Coconino is hereby authorized to reduce the levy to the maximum allowable by law after providing notice to the City.

SECTION 2. In addition to the rate set in Section 1 hereof, there is hereby levied on each one hundred dollars ($100.00) of the assessed value of all property, both real and personal within the corporate limits of the City of Flagstaff, except such property as may be by law exempt from taxation, a secondary property tax rate of 0.8000 for the fiscal year ending June 30, 2024.

SECTION 3. Failure by the county officials of Coconino County, Arizona, to properly return the delinquent list, any irregularity in assessments or omissions in the same, or any irregularity in any proceedings shall not invalidate such proceedings or invalidate any title conveyed by any tax deed; failure or neglect of any officer or officers to timely perform any of the duties assigned to him or to them shall not invalidate any proceedings or any deed or sale pursuant thereto, the validity of the assessment or levy of taxes or of the judgment of sale by which the collection of the same may be enforced shall not affect the lien of the City of Flagstaff upon such property for the delinquent taxes unpaid thereon; overcharge as to part of the taxes or of costs shall not invalidate any proceedings for the collection of taxes or the foreclosure of the lien thereon or a sale of the

property under such foreclosure; and all acts of officers de facto shall be valid as if performed by officers de jure.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. That the Clerk is hereby directed to transmit a certified copy of this ordinance to the County Assessor and the Board of Supervisors of the County of Coconino, Arizona.

SECTION 6. Effective Date. The tax levies imposed by this Ordinance shall take effect August 3, 2023.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

10. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Wesley Welch, Associate Planner
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Ordinance No. 2023-20: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff Zoning Map to rezone approximately 1.17 acres of real property located at 1899 S Woodlands Village Boulevard from the Light Industrial Open (LI-O) zone with the Resource Protection Overlay (RPO) to the Highway Commercial (HC) zone with the Resource Protection Overlay (RPO), providing for severability, authority for clerical corrections, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-20 by title only for the final time
2) City Clerk reads Ordinance No. 2023-20 by title only (if approved above)
3) Adopt Ordinance 2023-20.

Executive Summary:

Direct to Ordinance Zoning Map Amendment requested by John Reddell Architects, on behalf of the property owner Trampus Mansker, of approximately 1.17 acres located at 1899 S Woodlands Village Boulevard from the Light Industrial Open (LI-O) zone with the Resource Protection Overlay (RPO) to the Highway Commercial (HC) zone with the Resource Protection Overlay (RPO).

Financial Impact:

No financial impacts are anticipated with this request.

Policy Impact:

There are no policy impacts affiliated with this request.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Achieve a well-maintained community through comprehensive & equitable code compliance, & development that is compatible with community values.
Promote, protect, & enhance a healthy, sustainable environment & its natural resources.

Carbon Neutrality Plan

WS-3 Continue to Support water conservation efforts across the Flagstaff Community
HF-1 Protect existing forests, resources, and meaningful open spaces.
EP-2 Support the adaptation efforts of local businesses as the climate changes and the economic landscape shifts.

Regional Plan
See attached Planning & Zoning Commission staff report for full analysis.

Has There Been Previous Council Decision on This:
There has been no previous Council decision on this application.

Options and Alternatives:
The City Council may approve the ordinance as proposed, approve the ordinance with modified conditions, or deny the ordinance.

Background/History:
The applicant, John Reddell Architects, is requesting a Direct to Ordinance Zoning Map Amendment on behalf of the property owner, Trampus Mansker, to rezone approximately 1.17 acres from the LI-O zone with an RPO to the HC zone with an RPO located at 1899 S Woodlands Village Boulevard. This amendment would allow the expansion of an existing use that became legal non-conforming with the adoption of the Zoning Ordinance in 2011. At the time this property was developed, in 2002, the property was zoned Light Industrial (LI) and both a carwash and lube shop were permitted uses.

The subject property is a corner lot located at the intersection of University Avenue and Woodlands Village Boulevard. The existing development fronts University Avenue which is the shorter street frontage on this lot and is sited closest to the interior lot line away from Woodlands Village Boulevard. Primary access to the site is from Woodlands Village Boulevard. Rows of vacuums are located along the Woodlands Village Boulevard frontage. All existing vegetation will be maintained on this site. The applicant proposes to remove the lube shop component (1,568 square feet) of the existing use and expand the carwash by 980 square feet.

In the future, any redevelopment of the site will need to conform to the standards of the HC zone and any regulations of the Flagstaff Zoning Code in place at the time, regarding lighting, site design, architectural design standards, site planning design standards, signage standards, etc. The site was developed before the adoption of the current Zoning Code, any new development will be required to conform with all regulations of the City in place at the time of redevelopment.

Key Considerations:

Zoning Map Amendment Findings
An application for a Zoning Map Amendment shall be submitted to the Planning Director and shall be reviewed and a recommendation prepared. The Planning Director's recommendation shall be transmitted to the Planning and Zoning Commission in the form of a staff report prior to a scheduled public hearing. The recommendation shall include: an evaluation of the consistency and conformance of the proposed amendment with the goals and policies of the General Plan and any applicable specific plans; the grounds for the recommendation based on the standards and purposes of the zones set forth in Section 10-40.20 (Establishment of Zones) of the Zoning Code; and whether the amendment should be granted, granted with conditions to mitigate anticipated impacts caused by the proposed development, or denied.

The following findings will be analyzed specific to the approved site plan and consider if the site were to be redeveloped entirely under the HC zone standards.

Zoning Map Amendments shall be evaluated based on the following findings:

A. <u>Finding #1:</u>

The proposed amendment must be found to be consistent with and in conformance with the goals and policies of the General Plan and any applicable specific plans. If the application is not consistent with the General Plan, and any other applicable specific plan, the applicable plan must be amended in compliance with the procedures established in Chapter 11-10 of the City Code (Title 11: General Plans and Subdivisions) prior to considering the proposed amendment.

See Planning & Zoning Staff Summary.

B. Finding #2

To meet the finding, the proposed amendment must be determined not to be detrimental to the public interest, health, safety, convenience, or welfare of the City of Flagstaff (the "City") and will add to the public good as described in the General Plan.

Staff believes that the proposed project will not be detrimental to the public health, safety, or welfare so long as it is developed in accordance with all codes and requirements.

C. Finding #3

To meet the finding, the affected site must be determined to be physically suitable in terms of design, location, shape, size, and operating characteristics; and the provision of public and emergency vehicle access, public services, and utilities must ensure that the requested zone designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

Staff believes that the proposed application meets this finding. The Inter-Division Staff reviewed the application and concluded that the site was suitable for the proposed development. The IDS team based its conclusion on the review of all applicable codes and requirements. No impact analyses were required for this site.

For all future redevelopment, Staff would review the proposed project through the IDS Review Process to ensure it is in conformance with all current codes. If any issues arise that could endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity then further studies and analyses will be required.

Community Benefits and Considerations:

Community benefits and considerations reltaed to this request are addressed in more detail in the attached Planning & Zoning Commission Staff Report date June 14, 2023.

Community Involvement:

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with requests for Zoning Map Amendments. In accordance with Arizona State Statute, notice of the public hearing was provided by placing an ad in the Arizona Daily Sun, posting notices on the property, and mailing a notice to all property owners within 300 feet of the site excluding rights-of-ways.

The applicant held one on-site neighborhood meeting regarding this case on April 10th at 6:00 p.m. The architect, the property owners, and one neighboring business owner attended the meeting. The neighboring business owner showed his support for the proposed redevelopment. The second required meeting was waived by the Planning Director. Staff has not received any comments from the public as of the writing of this report.

Attachments: Presentation

Application
Planning & Zoning Commission Staff Report
Ord. 2023-20
Legal Description
Project Narrative
Regional Plan Analysis
Site Plan
Elevations
Landscape Plan
Citizen Participation Plan
Neighborhood Meeting Minutes

Ocean Blue Carwash
Woodlands Village
Direct to Ordinance
Zoning Map Amendment

1899 S Woodlands Village Boulevard

Wesley Welch, Planner

TEAM FLAGSTAFF
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Ocean Blue Carwash

Property

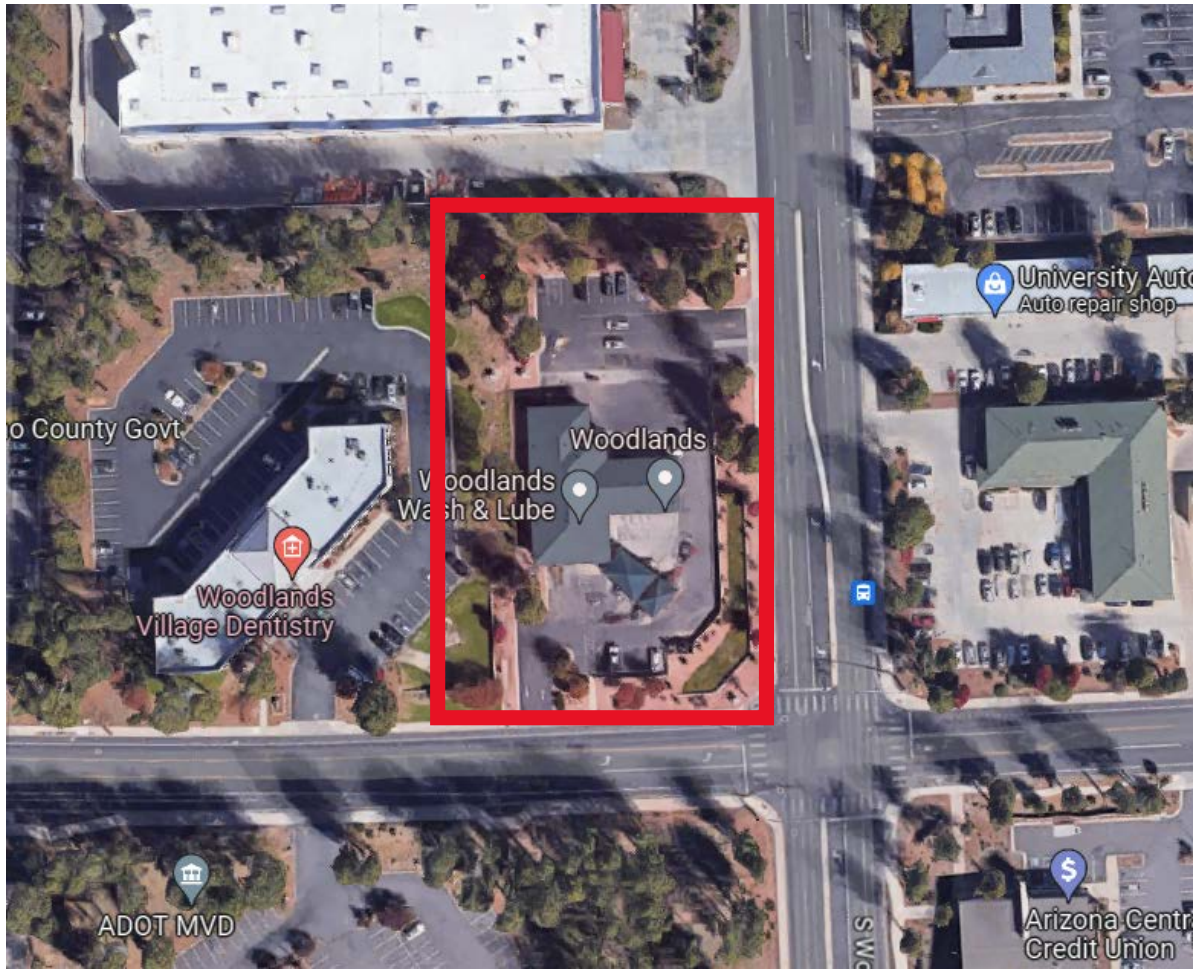
1899 S Woodlands Village Boulevard
APN 112-24-001B

Proposed Use

Applicant wishes to remove the lube shop on the site and expand the existing carwash use

Request

1. Direct to Ordinance Zoning Map Amendment to rezone approximately 1.17 acres located at 1899 S Woodlands Village Boulevard from the Light Industrial Open (LI-O) zone with the Resource Protection Overlay (RPO) to the Highway Commercial (HC) zone with the Resource Protection Overlay (RPO).



Site History

- Carwash was a permitted, existing use prior to the adoption of the current Zoning Code (adopted in 2011).
- New zoning designation of Light Industrial Open (LI-O) made the existing use legal non-conforming.
- Applicant is proposing to expand the existing use on the site but will need to go through the rezoning process in order to bring the site into conformance.

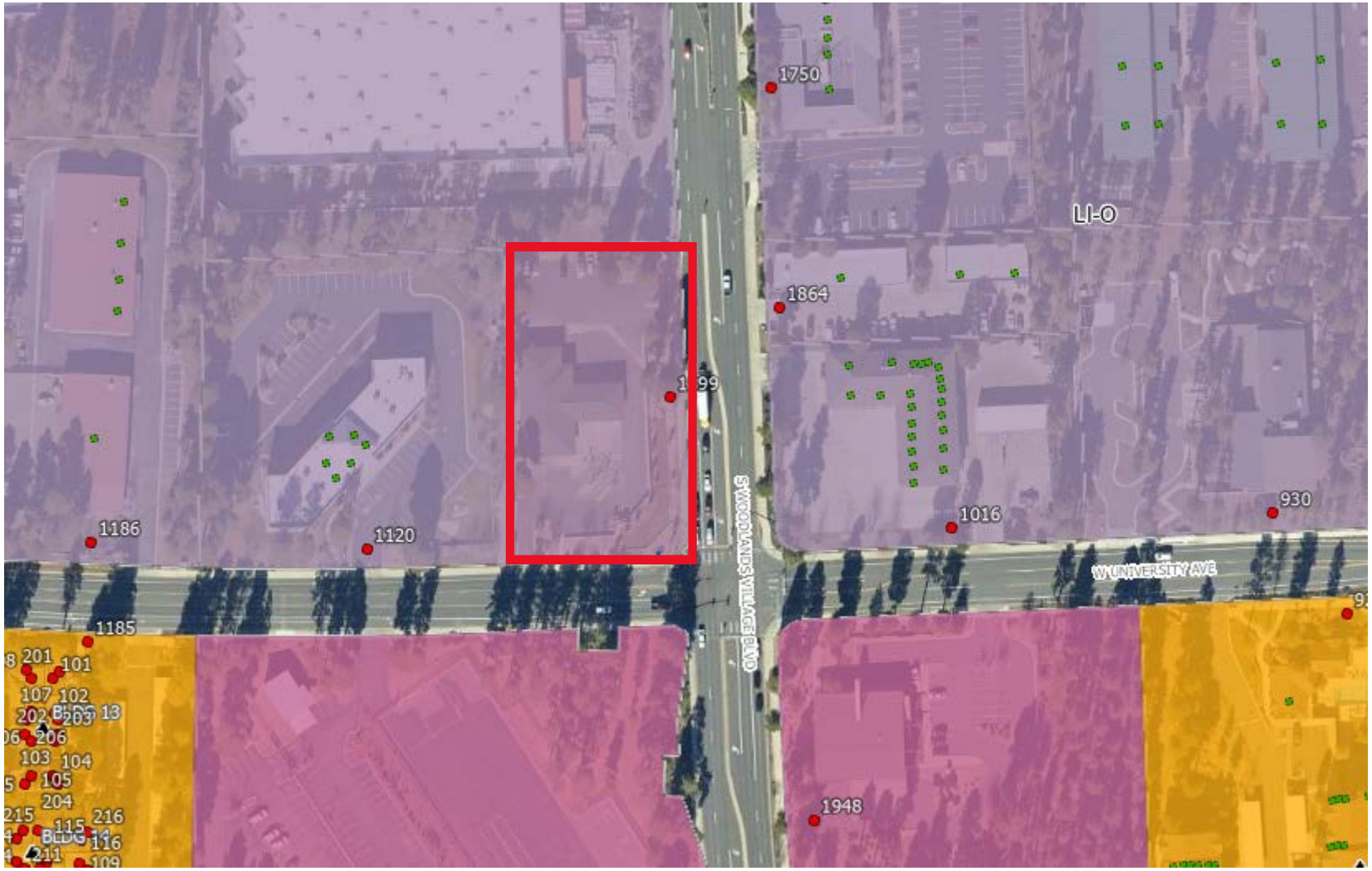
Property Context Map

North
Home Depot, zoned LI-O

West
Office Complex, Zoned LI-O

East
Right-of-Way and an Office Complex across the street, zoned LI-O

South
Right-of-Way and Arizona MVD and Arizona Department of Transportation, zoned HC

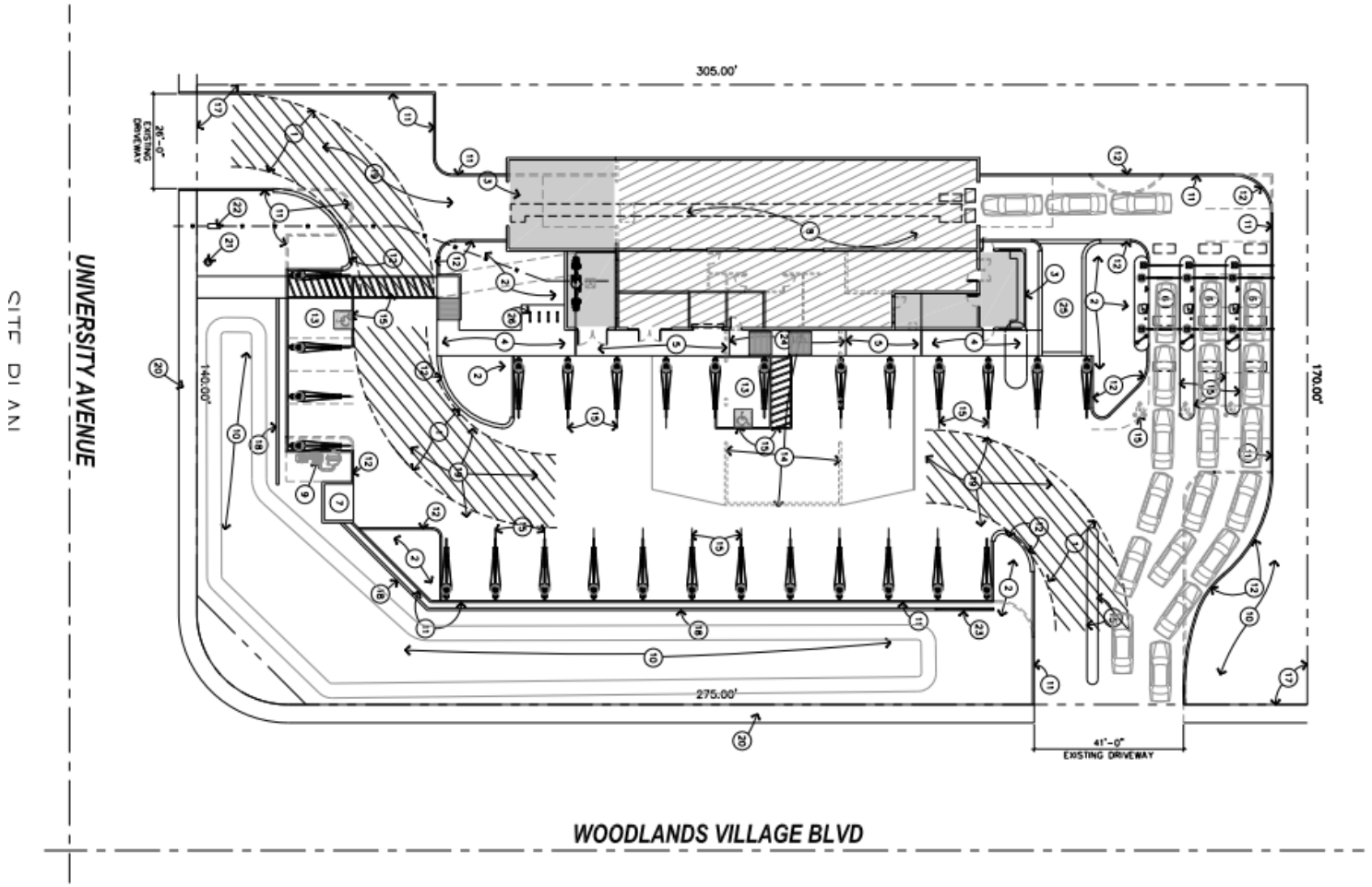


Types of Zoning Map Amendments

- Direct to Ordinance with a Site Plan
  - Requires applicant to submit fully developed site plans with all supporting information required for a site plan review.
  - Once a zoning map amendment is approved by Council, the project can proceed directly to construction plan review.
- Concept Zoning Plan
  - Process allows a concept plan and applicant to pursue site plan approval after the rezoning. This means staff has not reviewed building heights, landscape plans, outdoor lighting plans, signage or architectural design standards.

Ocean Blue Carwash Site Plan

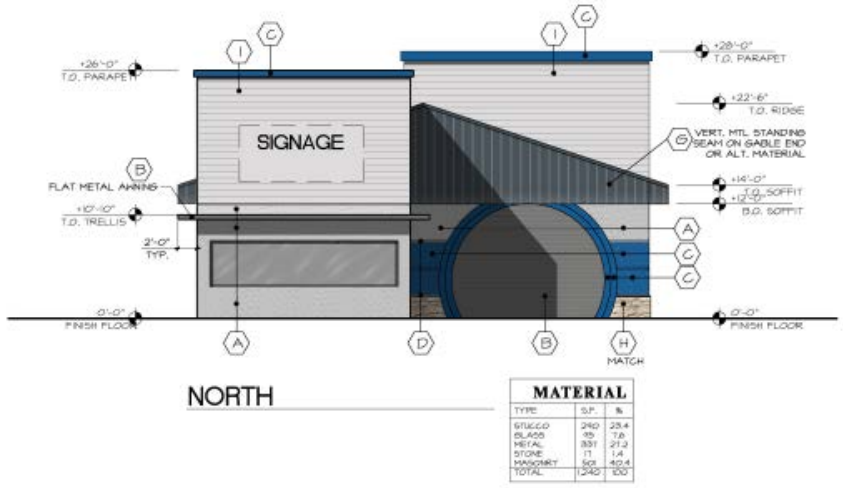
- Existing Building Area
  - Lube Building Demo
    - 1,536 square feet
  - Remaining Carwash
    - 4,500 square feet
  - New addition
    - 1,536 square feet
- 1.17 acre site
- 5 employee parking spaces



Parking Calculations

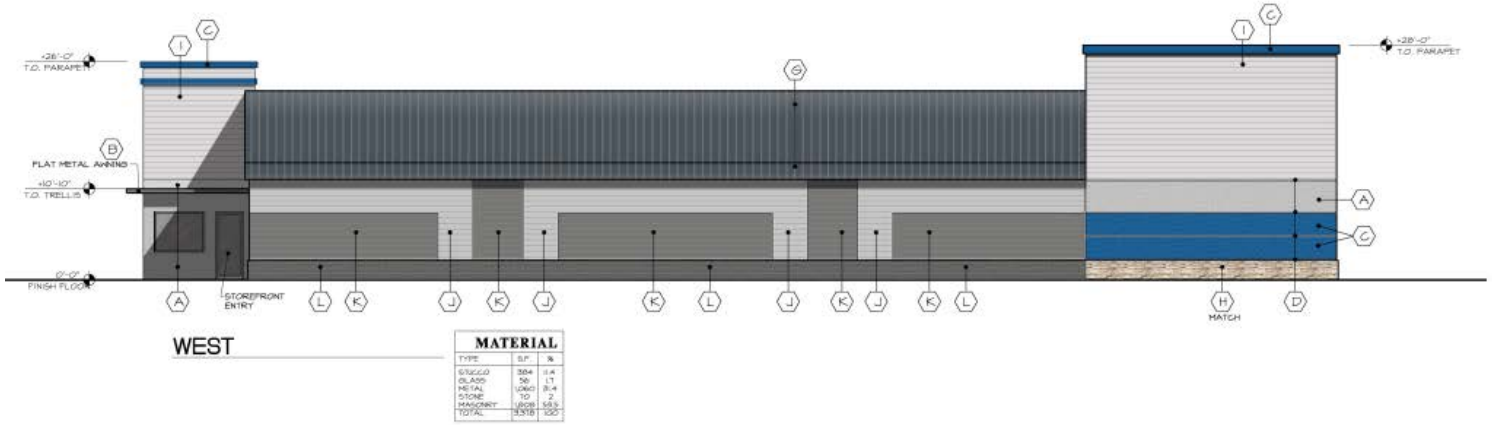
- Per the Flagstaff Zoning Code, a **Car Wash** use requires 1.5 spaces per employee plus the drive-through parking requirement.
  - With a total of **3** employees on a shift, this requires 5 employee parking spaces which were provided.
- **Bicycle parking** is also required.
  - The applicant has provided **4** bicycle racks, double the minimum requirement of 2.
- **ADA (accessible)** designed parking spaces are also required based on total number of vehicular spaces.

Proposed Building Elevations



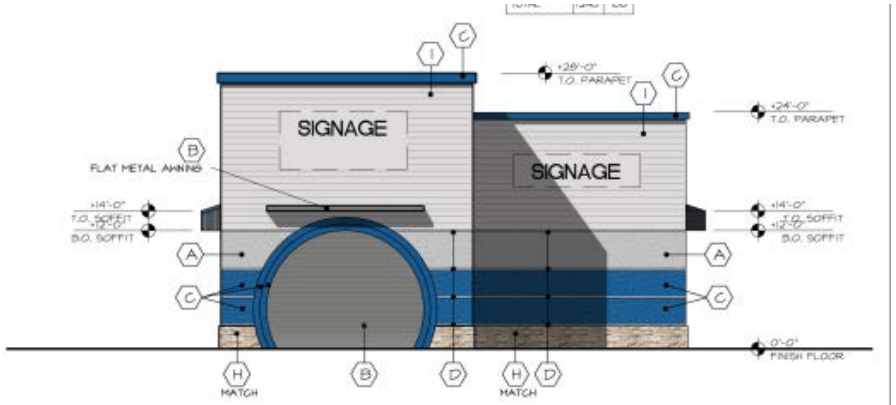
NORTH

MATERIAL		
TYPE	S.F.	%
STUCCO	280	23.4
GLASS	95	7.8
METAL	331	27.3
STONE	17	1.4
MASONRY	501	40.4
TOTAL	1240	100



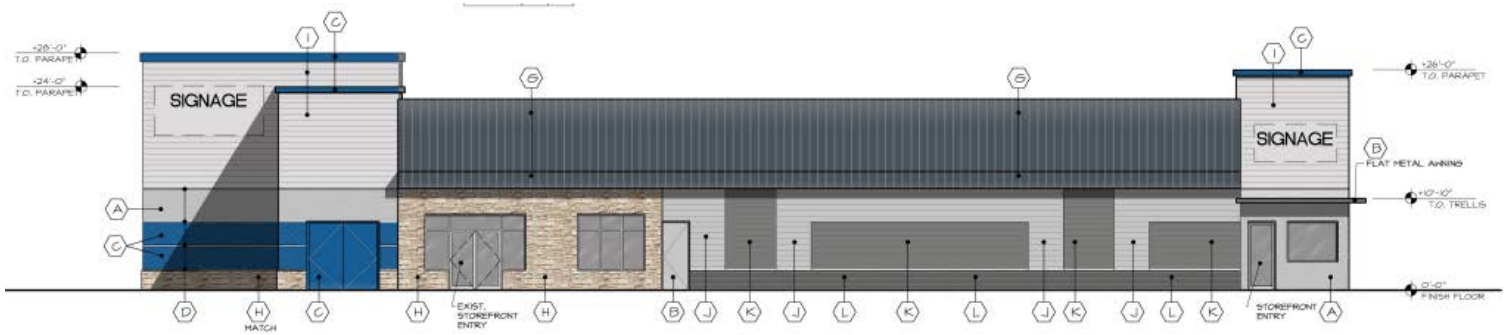
WEST

MATERIAL		
TYPE	S.F.	%
STUCCO	384	11.4
GLASS	56	1.7
METAL	1,060	31.4
STONE	10	.2
MASONRY	1,808	53.3
TOTAL	3,318	100



SOUTH

MATERIAL		
TYPE	S.F.	%



EAST

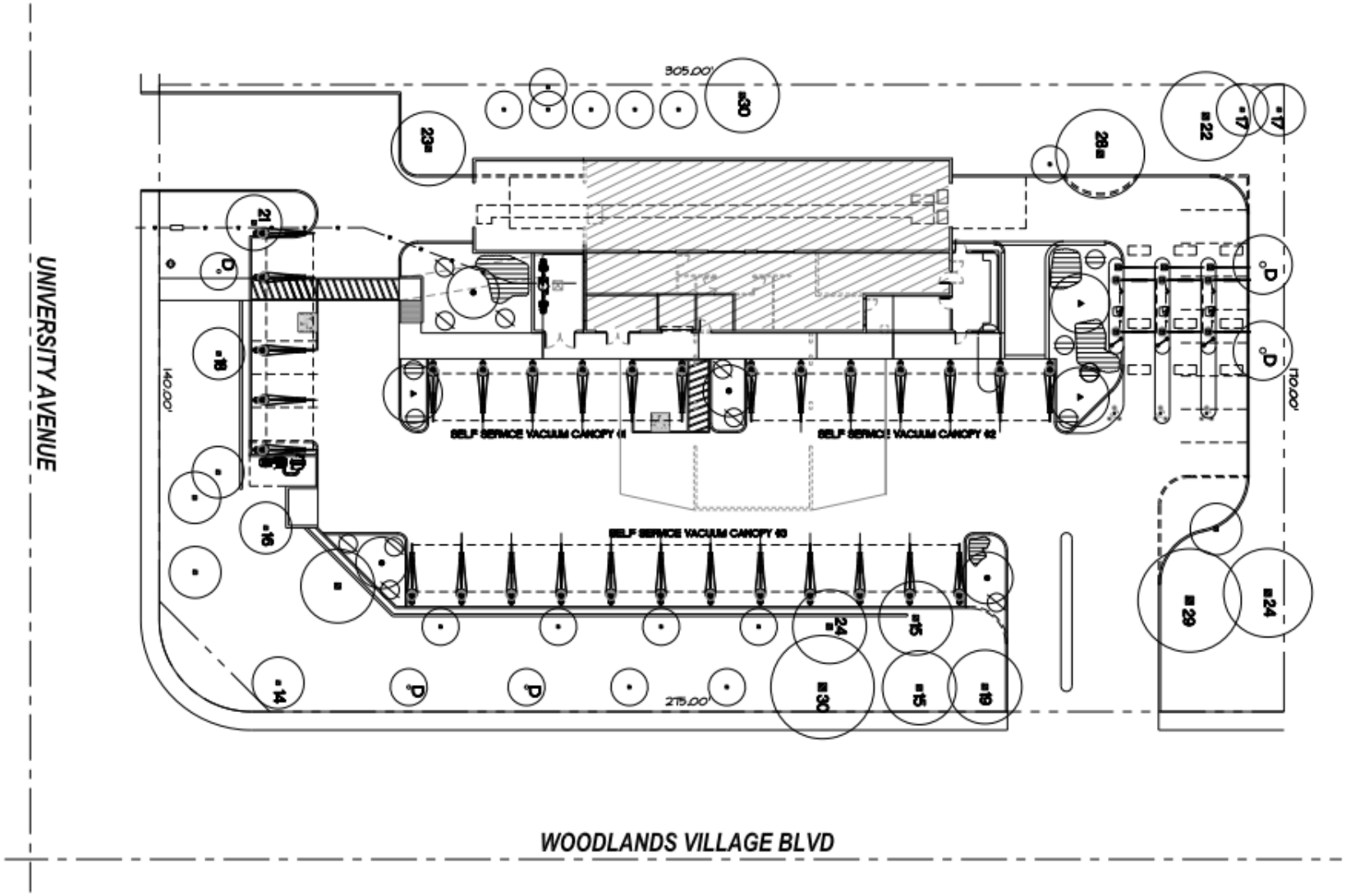
MATERIAL		
TYPE	S.F.	%
STUCCO	352	9.8
GLASS	204	6
METAL	1,130	34
STONE	219	6.2
MASONRY	1,414	42
TOTAL	3,318	100

BUILDING ELEVATIONS

1/8"=1'-0"

All architectural renderings are protected by copyright law and may not be copied or reproduced in any fashion

Landscaping Plan



PLANT MATERIALS LIST

SYMBOL	BOTANICAL NAME / COMMON NAME	SIZE	QTY.	REMARKS
	Deciduous Tree	Existing	5	
	Ponderosa Pine	Existing	35	
	Baby Blue Spruce	24" Box	4	7'H x 2.5'W x .75"Cal.
	Autumn Blaze Flowering Prep	24" Box	3	7.5'H x 4'W x 1.5"Cal.
	SHRUBS			
	Snowmound Spirea	5 Gallon	9	
	'Royal Burgendy BarBarry	5 Gallon	6	
	GROUND COVERS			
	Acacia redolens 'Desert Carpet' Trailing Acacia	1 Gallon	20	6' O.C. Triangulated

Future Development on the Site

- Proposed condition of approval stipulates that the site will be tied to the site plan for 10 years.
- After that, the site would be allowed to redevelop based on the regulations of the HC zone at the time of redevelopment.
- This may bring the site into closer conformance with the future land use map from the Regional Plan.

Impact Analyses

- There are three main impact analyses that can be triggered by code:
  - Traffic Impact Analysis
  - Water Sewer Impact Analysis (WSIA)
  - Stormwater Analysis
- This development did not meet the thresholds that require any of the three above analyses.
- Any future development would be reviewed against the current code at the time and could be required to provide impact analyses depending on the intensity of the development.

Zoning Map Amendment Findings

Finding #1

The proposed amendment must be found to be consistent with and in conformance with the goals and policies of the General Plan and any applicable specific plans. If the application is not consistent with the General Plan, and any other applicable specific plan, the applicable plan must be amended in compliance with the procedures established in Chapter 11-10 of the City Code prior to considering the proposed amendment

Finding #1

1.17 acres designated as Existing Suburban located at the center of a Suburban Activity Center.

Medium to low densities of people, residences, jobs, and activities; the streets and sidewalks vary in pattern; the area is drivable to access homes and jobs, yet walkable by special pedestrian facilities such as FUTS trails; and the area may have access to public transportation.

The majority of Suburban Activity Centers identified in the Regional Plan contain HC zoned properties. This area is also identified as "Suburban – Future" in the Future Growth Illustration map. Future redevelopment regulated with the HC zoning regulations would bring the site into further conformance with the Regional Plan.



Zoning Map Amendment Findings

Finding #2

The proposed amendment must be determined not to be detrimental to the public interest, health, safety, convenience, or welfare of the City of Flagstaff, and will add to the public good as described in the General Plan.

Staff believes that the proposed project will not be detrimental to the public health, safety, or welfare so long as it is developed in accordance with all codes and requirements.

Zoning Map Amendment Findings

Finding #3

The site must be determined to be physically suitable in terms of design, location, shape, size, and operating characteristics; and the provision of public and emergency vehicle access, public services, and utilities to ensure that the requested zone designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

Finding #3

Adequacy of Site

- Staff believes that the proposed application meets this finding. The Inter-Division Staff (IDS) reviewed the application and concluded that the site was suitable for the proposed development. The IDS team based its conclusion on the review of all applicable codes and requirements. No impact analyses were required for this site.
- For all future redevelopment, Staff would review the proposed project through the IDS Review Process to ensure it is in conformance with all current codes. If any issues arise that could endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity then further studies and analyses will be required.

Citizen Participation Plan

- Applicant held one on-site neighborhood meeting regarding this case on April 10th. The architect, the property owners, and one neighboring business owner attended. The business owner was in support of the rezone.
- A second neighborhood meeting requirement was waived by the Director.
- A Citizen Participation Report was prepared and attached to the staff summary.
- Staff has not received any comments on this application.

Staff Recommendation

The Planning and Zoning Commission by unanimous vote (5-0) recommend the City Council finds the proposed Zoning Map Amendment in substantial conformance with the required findings and approve an amendment to the Zoning Map for 1.17 acres LI-O zone with the RPO to the HC zone with the RPO, with the following conditions:

1. The subject property must be developed in accordance with the approved site plan. Modifications (other than minor modifications) to the approved site plan may require an amendment to this request within 10 years of the date of the approval. After 10 years the property may be developed under the Zoning Code standards for the Highway Commercial Zone including all permitted and conditional uses and affiliated development standards.

2. The proposed development, and any future redevelopment, shall meet all other requirements of the Zoning Code and other City codes, ordinances, and regulations.

3. In the event the property is rezoned, and the applicant fails to obtain final Civil Plan approval within two (2) years of the effective date of the rezoning ordinance, then the City may schedule a public hearing before the City Council for the purpose of causing the zoning on the Property to revert to the former classification of LI-O in accordance with A.R.S. § 9-462.01.

Thank you!

TEAM FLAGSTAFF

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Questions or Comments

City of Flagstaff — Community Development Division

211 W. Aspen Ave
Flagstaff, AZ 86001
www.flagstaff.az.gov
P: (928) 213-2618
F: (928) 213-2609

Date Received	Application for Direct to Ordinance Zoning Map Amendment	File Number

Project Name	OCEAN BLUE CAR WASH (WOODLANDS)		
Site Address	**Parcel Number(s)**	**Subdivision & Lot Number**	**Site Acreage**
1899 S. WOODLANDS VILLAGE	112-24-001-B		1.17
Existing Zoning District	**Proposed Zoning District**	**Existing Regional Plan Area and Place Type**	
LI-O	HC		
Existing Use	**Proposed Use**		
CARWASH	CARWASH		

Property Information:
- ☐ Yes ☒ No Located in an existing Local/National Historic District? (Name: _____)
- ☐ Yes ☒ No Existing structures are over 50 years old at the time of application?
- ☐ Yes ☒ No Subject property is undeveloped land?

Type of Zoning Map Amendment (Small, Medium, Large or Multi-Phase): SMALL

Property Owner(s)		**Phone**	
TRAMPUS MANSKER		928.660.1396	
Mailing Address	**City, State, Zip**	**E-mail**	
2083 E. HARDY LANE	CAMP VERDE, AZ 86322	MANSKER212@HOTMAIL.COM	
Applicant(s)		**Phone**	
JOHN REDDELL (JOHN REDDELL ARCHITECTS)		602-531-2854	
Mailing Address	**City, State, Zip**	**E-mail**	
4992 S. 158 ST	GILBERT, AZ 85298	JOHN@REDDELLARCHITECTS.COM	
Project Representative(s)		**Phone**	
JOHN REDDELL (JOHN REDDELL ARCHITECTS)		602.531.2854	
Mailing Address	**City, State, Zip**	**E-mail**	
4992 S. 158TH ST.	GILBERT, AZ 85298	JOHN@REDDELLARCHITECTS.COM	

Property Owner Signature (required)	Date	Applicant Signature	Date
	1-23-23	John Reddell	1-18-2023

For City Use

Date Filed:	**File Number(s):**	
P & Z Hearing Date:	**Publication and Posting Date:**	
Council Hearing Date:	**Publication and Posting Date:**	
Fee Receipt Number:	**Amount:**	**Date:**

Action by Planning and Zoning Commission:	Action by City Council:
☐ Approved	☐ Approved
☐ Denied	☐ Denied
☐ Continued	☐ Continued

Staff Assignments	Planning	Engineering	Fire	PW/Water Services	Stormwater

PLANNING AND DEVELOPMENT SERVICES REPORT
DIRECT TO ORDINANCE ZONING MAP AMENDMENT

PUBLIC HEARING
PZ-22-00164-01

DATE: **May 24, 2023**
MEETING DATE: **June 14, 2023**
REPORT BY: **Wesley Welch**

REQUEST:
Direct to Ordinance Zoning Map Amendment requested by John Reddell Architects, on behalf of the property owner Trampus Mansker, of approximately 1.17 acres located at 1899 S Woodlands Village Boulevard from the Light Industrial Open (LI-O) zone with the Resource Protection Overlay (RPO) to the Highway Commercial (HC) zone with the Resource Protection Overlay (RPO).

STAFF RECOMMENDATION:
Staff believes that the proposed Zoning Map amendment is in substantial conformance with the required findings and recommends the Planning & Zoning Commission forward the request to the City Council with a recommendation for approval, subject to the following conditions:

1. The subject property must be developed in accordance with the approved site plan. Modifications (other than minor modifications) to the approved site plan may require an amendment to this request within 10 years of the date of the approval. After 10 years the property may be developed under the Zoning Code standards for the Highway Commercial Zone including all permitted and conditional uses and affiliated development standards.
2. The proposed development, and any future redevelopment, shall meet all other requirements of the Zoning Code and other City codes, ordinances, and regulations.
3. In the event the property is rezoned, and the applicant fails to obtain final Civil Plan approval within two (2) years of the effective date of the rezoning ordinance, then the City may schedule a public hearing before the City Council for the purpose of causing the zoning on the Property to revert to the former classification of LI-O in accordance with A.R.S. § 9-462.01.

PRESENT LAND USE:
The subject property ("Property") is approximately a 1.17-acre parcel containing a carwash and lube shop, which are considered legal non-conforming uses in the LI-O zone.

PROPOSED LAND USE:
The applicant proposes to remove the lube shop and expand the current carwash use. Any future redevelopment of the site shall conform with the requirements of the HC zone, the Zoning Code and other City codes, ordinances, and regulations.

NEIGHBORHOOD DEVELOPMENT:
See the attached area context map.

North: Home Depot, zoned LI-O
East: Right-of-Way and an Office Complex across the street, zoned LI-O
South: Right-of-Way and Arizona MVD and Arizona Department of Transportation, zoned HC
West: Office Complex, zoned LI-O

I. Project Introduction

A. Background/Introduction

The applicant, John Reddell Architects, is requesting a Direct to Ordinance Zoning Map Amendment on behalf of the property owner, Trampus Mansker, to rezone approximately 1.17 acres from the LI-O zone with an RPO to the HC zone with an RPO located at 1899 S Woodlands Village Boulevard. This amendment would allow the expansion of an existing use that became legal non-conforming with the adoption of the Zoning Ordinance in 2011. At the time this property was developed, in 2002, the property was zoned Light Industrial (LI) and both a carwash and lube shop were permitted uses.

The subject property is a corner lot located at the intersection of University Avenue and Woodlands Village Boulevard. The existing development fronts University Avenue which is the shorter street frontage on this lot and is sited closest to the interior lot line away from Woodlands Village Boulevard. Primary access to the site is from Woodlands Village Boulevard. Rows of vacuums are located along the Woodlands Village Boulevard frontage. All existing vegetation will be maintained on this site. The applicant proposes to remove the lube shop component (1,568 square feet) of the existing use and expand the carwash by 980 square feet.

In the future, any redevelopment of the site will need to conform to the standards of the HC zone and any regulations of the Flagstaff Zoning Code in place at the time, regarding lighting, site design, architectural design standards, site planning design standards, signage standards, etc. The site was developed before the adoption of the current Zoning Code, any new development will be required to conform with all regulations of the City in place at the time of redevelopment.

B. Proposed Rezoning and Development Plan

The applicant, John Reddell Architects, is requesting rezoning approval to permit the expansion of the existing carwash. If the site were to be redeveloped in the future, it would be subject to the Site Plan approval process and would be required to conform with the regulations of the Flagstaff Zoning Code in place at the time.

Site Plan

On May 12, 2023, the Inter-Department Staff (IDS) approved the Site Plan and deemed the rezoning application to be complete. If this rezoning is approved, the applicant will need to submit civil plans and building permits.

A. Zoning – City of Flagstaff Zoning Code

If this Direct to Ordinance Zoning Map Amendment request is approved, approximately 1.17 acres will be rezoned to the HC zone. Development of the site will be required to comply with the standards of the Zoning Code. This rezoning will be conditioned to the approved Site Plan for 10 years. After which, future redevelopment of the site shall be allowed if it conforms with the development standards of the HC zone at the time of development.

i. Site Planning Standards

The site was developed in 2002 prior to the adoption of the current Site Planning Design Standards, which focus on building forward design. The new expansion helps bring the site closer to compliance with these standards. The addition is located primarily on the University Avenue frontage.

The site follows the pattern of development of other parcels in the area. Situated along a commercial corridor, the surrounding sites consist of buildings and their adjacent parking lots. The landscaping standards will be consistent with the landscaping in the surrounding areas.

The proposed addition will remain consistent with the scale of the current structure on the proposed site.

The continuity of the site will remain consistent with the current structure on the site. The materials used will remain consistent with what is currently on the site and blend with the surrounding architecture.

Any future redevelopment would need to conform to the Site Planning Design Standards at the time of development.

ii. Resource Protection

There is an RPO zone on the subject site. The Zoning Code requires commercially zoned parcels to protect 30% of the tree resources. A Natural Resource Protection Plan (NRPP) was submitted as part of the site plan application from 2002, which identifies the protected trees on the site. The current site plan submittal does not

show any removal of the protected trees. The applicant will also be providing additional landscaping to the site beyond what is currently required. If this rezoning is approved, staff will ensure compliance with the Zoning Code during Civil Plan review.

Future redevelopment of the site would require that the resources remain protected.

iii. Open Space & Civic Space

The proposed use does not require either open space or civic space.

Future redevelopment of the site would be subject to open space and/or civic space regulations if the development meets the applicability standards for requiring open space or civic space.

iv. Pedestrian and Bicycle Circulation Systems

There are existing sidewalks along both the University Avenue and Woodlands Village Boulevard frontages. The applicant may be required to update the driveways to meet ADA requirements. This will be determined at Civil Plan review. There is also an existing concrete path that leads from the University Avenue sidewalk to the building. The applicant is providing four new bicycle parking spots.

Future redevelopment would be required to meet the pedestrian and bicycle circulation systems at the time of development.

v. Compatibility and Architectural Design Standards

The proposed addition meets the Architectural Design Standards prescribed by code. The entire building will be finished with materials that meet the current architectural design standards, including metal panels, stone veneer, and split-face CMU block of varying colors. The building is designed so that the more visually heavy materials are placed at the bottom of the building. All colors meet the code requirement of having a Light Reflectance Value (LRV) of 50% or less. The majority of the building is preexisting and built prior to the current architectural standards. For this reason, staff did not require full compliance with the articulation standards.

Future redevelopment would be required to meet current Architectural Design Standards at the time of development.

vi. Landscaping

The applicant was not required to bring the existing landscaping on the entire site up to current standards, since the proposed addition is less than a 35% increase in gross floor area. However, the site will not only retain its original landscaping but will also provide new additional landscaping.

Future redevelopment would be required to meet current Landscaping standards at the time of redevelopment.

vii. Outdoor Lighting

The subject property is located within Lighting Zone 2. An outdoor lighting permit is required to be submitted with the building permit and will be reviewed for compliance with our Dark Sky standards.

Future redevelopment would be required to meet current Outdoor Lighting standards at the time of redevelopment.

viii. Parking

Due to the drive-thru nature of the development, the only parking requirements are for employee parking. The code stipulates that 1.5 parking spaces are required per employee. The applicant states that there will

be 3 employees on any given shift, for a total of 5 parking spaces. These spaces are delineated on the site plan.

Future redevelopment would be required to meet the current Parking standards at the time of redevelopment.

ix. Historic/Cultural Resources
The Heritage Preservation Officer has determined that no analysis of the site is required.

B. Public Systems Impact Analysis

i. Traffic/Right-of-Way Impact
No analysis was required. Staff required the applicant to provide information about the number of cars queuing for the carwash to ensure they will not block traffic on Woodlands Village Boulevard.

Any future redevelopment will be reviewed by staff and could possibly require a traffic/right-of-way impact analysis, depending on the intensity of the project.

ii. Water and Wastewater Impact
No analysis was required. The applicant states that the new carwash equipment is more efficient than the existing equipment, using less water and recycling the water it does use.

Any future redevelopment will be reviewed by staff and could require a water and wastewater impact analysis, depending on the intensity of the project.

iii. Stormwater Analysis
No analysis was required. The development is not proposing any increase to the impervious area, in fact, the new landscaping areas add pervious areas to the site.

Any future redevelopment will be reviewed by staff and could require a stormwater analysis depending on the intensity of the project.

II. Zoning Map Amendment Findings

An application for a Zoning Map Amendment shall be submitted to the Planning Director and shall be reviewed and a recommendation prepared. The Planning Director's recommendation shall be transmitted to the Planning and Zoning Commission in the form of a staff report prior to a scheduled public hearing. The recommendation shall include: an evaluation of the consistency and conformance of the proposed amendment with the goals and policies of the General Plan and any applicable specific plans; the grounds for the recommendation based on the standards and purposes of the zones set forth in Section 10-40.20 (Establishment of Zones) of the Zoning Code; and whether the amendment should be granted, granted with conditions to mitigate anticipated impacts caused by the proposed development, or denied.

The following findings will be analyzed specific to the approved site plan and consider if the site were to be redeveloped entirely under the HC zone standards.

Zoning Map Amendments shall be evaluated based on the following findings:

A. Finding #1:
The proposed amendment must be found to be consistent with and in conformance with the goals and policies of the General Plan and any applicable specific plans. If the application is not consistent with the General Plan, and any other

applicable specific plan, the applicable plan must be amended in compliance with the procedures established in Chapter 11-10 of the City Code (Title 11: General Plans and Subdivisions) prior to considering the proposed amendment.

i. General Plan/Flagstaff Regional Plan (FRP 2030) Process and Analysis Summary

When staff performs a Regional Plan (the "Plan") analysis, staff reviews all maps, text, and goals and policies to determine which are the most relevant in relation to the proposed application. The Plan's Future Growth Illustration on Maps 21 and 22 (same map; one is regional scale and one city scale) and the text of the Plan provide supplemental information for the interpretation of goals and policies. In the case of any conflict between the Future Growth Illustration and the Plan's goals and policies, the goals and policies will prevail. The Future Growth Illustration has two types of land use designations: "Area Types" describe the place-making context of Urban, Suburban, Rural, or Employment, and "Place Types" such as activity centers, corridors, and neighborhoods provide the framework for the density, intensities, and mix of uses within the area types.

The subject property is designated as Existing Suburban area type and is located near a Suburban Activity Center and within the pedestrian sheds of two Regional Scale Suburban activity centers. Suburban areas are intended to have medium to low densities of people, residences, jobs, and activities; the streets and sidewalks vary in pattern; the area is drivable to access homes and jobs, yet walkable by special pedestrian facilities such as FUTS trails; some services and goods are available to the residents; and the area may have access to public transportation. Regional activity centers are located at the intersection of major roads and have multiple large residential developments. The proposed development meets the components of the activity center and area type by providing an auto-oriented business in a one-story building.

The majority of Suburban Activity Centers and Pedestrian Sheds identified in Regional Plan currently contain HC zoned properties within their boundaries. The Future Growth Illustration Map identifies the intersection of Woodlands Village and University Avenue as "Suburban – Future". The Regional Plan does not identify Industrial uses to be located within these areas. Future redevelopment regulated by the HC zoning regulations would bring the site into further conformance with the Regional Plan more so than redevelopment regulated by Light Industrial – Open zoning.

ii. Applicable General Plan Goals and Policies

As part of its review, staff identified relevant Regional Plan Goals and Policies that could be applied to support or not support the proposed Zoning Map Amendment. The relevant goals and policies can be found below and within the developer's narrative. The following is a discussion of how the project generally meets or conflicts with goals and policies in each relevant chapter.

a. Environmental Planning & Conservation (Air Quality, Climate Change and Adaptation, Dark Skies, Ecosystem Health, Environmentally Sensitive Lands, Natural Quiet, Soils, and Wildlife)

The subject property is not identified as a site with significant or concentrations of natural resources per Maps 7 and 8 within the Regional Plan.

Policy E&C.4.2 aims to develop water use policies that attempt to integrate current best projections of climate change effects on the Colorado Plateau's water resources and emphasize conservation. The redeveloped site will implement new technology that provides for the reuse of the water along with new efficiency of the water-saving equipment.

Goal E&C.5 aims to preserve dark skies as an unspoiled natural resource and a core element of community character. As part of this redevelopment, the site will need to submit for an outdoor lighting permit and will need to bring the entire site into compliance with the current dark skies lighting code. Any future redevelopment of the site would need to conform to the lighting codes and regulations in place at that time.

Goal E&C.8 aims to maintain areas of natural quiet and reduce noise pollution. The remodel process will remove an existing vacuum turbine exposed along University Avenue and will relocate it to an area within an enclosed structure where the noise pollution will be outfitted with noise suppression equipment.

b. Water Resources (Water Sources, Water Demand, Stormwater and Watershed Management, and Water Quality)

As shown on Map 21 and referenced in Policy WR.4.3., "Development requiring public utility services will be located within the Urban Growth Boundary." The Property is located within the Urban Growth Boundary. There is existing water and sewer infrastructure at the intersection of University Avenue and Woodlands Village Boulevard that can support the proposed addition. By opening this site for any future redevelopment regulated by the HC zone, infill development would be able to connect to current utility services in a dense area without extending the boundaries of the services. This would help to meet Policy WR.6.4 which encourages low-impact development strategies.

The applicant has noted that they are implementing new technology in the carwash that provides for the reuse of the water along with new efficiency of the water-saving equipment that is replacing older equipment that is much less efficient in water use and reuse. This applies to Policy WR.3.3 which aims to integrate sound water conservation and reuse systems into new and updated public facilities.

It is important to note that a Water-Sewer Impact Analysis (WSIA) was not required for this site, however any future redevelopment would be reviewed by staff to determine if a WSIA would be required for the new development.

c. Energy (Energy Efficiency and Renewable Energy)

Goal E.1 encourages increasing energy efficiency. The addition to this development will not consume more energy than is currently on the site as this is a proposition for the expansion of a current use. With the removal of the lube shop and the change from a full-service carwash to an express automated carwash, the site will be updated to provide the latest in energy-efficient motors and equipment operations.

d. Community Character (Scenic Resources and Natural Setting, Heritage Preservation, Community Design, and Arts, Sciences, and Education)

Policy CC.1.1 aims to conserve ponderosa pines. The current landscaping plan does not remove any of the required preserved trees from the original site plan. Any future redevelopment of the site would be required to preserve the resource protected trees as well.

Goal CC.3 aims to preserve, restore, enhance, and reflect the design traditions of Flagstaff. Specifically, policies CC.3.1 and CC.3.2 discuss the desired design of buildings and their relationship to their context including maintaining and enhancing existing buildings. The new design of the building provides a more diverse mixture of materials and helps to provide a more modern look to the existing structure. Additionally, future redevelopment of the site would be required to adhere to the Zoning Code regulations specifically regarding Site Planning Design Standards and Architectural Design Standards.

e. Growth Areas & Land Use (Reinvestment, Greenfield, Urban Area, Suburban Area, Rural Area, Employment Area, Special Planning Area, and Activity Centers)

The proposed development proposes a removal of one use to expand an existing use.

The applicant has met with nearby residents and property owners. The Citizen Participation Report, required as part of the rezoning application and prepared by the architect, outlines the specific details of these efforts. Policy LU.1.11 calls for collaboration between a developer, residents, and property owners in existing neighborhoods where redevelopment and reinvestment are proposed so that they are included, engaged, and informed.

Goal LU.1 promotes an investment in existing neighborhoods and activity centers for the purpose of developing complete and connected places. This works in conjunction with Goal LU.9 which aims to focus reinvestment in urban areas. The proposal to expand the existing use shows a more cohesive development of the site. According to the applicant, the lube shop use is not as utilized. Therefore, expanding the more utilized use will bring more vitality to the site. By allowing any future redevelopment to be developed under HC zone standards, this will allow more commercial, pedestrian-friendly uses. Many of these uses are not allowed under the current industrial zoning.

Policy LU.1.3 promotes reinvestment at the neighborhood scale to include redevelopment of underutilized properties and remodeling of existing buildings and streetscapes. The site will be redeveloped to provide an expansion of a use that is more heavily utilized on the site and future redevelopment regulated by the HC zone will provide the opportunity to bring more commercial uses to the site.

Goal LU.5 encourages compact development principles to achieve efficiencies and open space preservation. If this site were to be redeveloped under the current zoning designation of Light Industrial – Open then it would not meet the policies of this goal especially LU.5.4 which encourages development to be clustered in appropriate to and within the context of each area type: urban, suburban, and rural.

Goal LU.13 aims to increase the variety of housing options and expand opportunities for employment and neighborhood shopping within suburban neighborhoods. If future redevelopment were to occur, then this rezone would increase the allowed commercial uses on the site. Likewise, Goal LU.18 aims to develop well-designed activity centers and corridors with a variety of employment, business, shopping, civic engagement, cultural opportunities, and residential choices. If rezoned to HC, this would increase the commercial uses allowed for any future redevelopment.

f. Transportation (Mobility and Access, Safe and Efficient Multimodal Transportation, Environmental Considerations, Quality Design, Pedestrian Infrastructure, Bicycle Infrastructure, Transit, Automobile, Passenger Rail and Rail Freight, Air Travel, and Public Support for Transportation)

Goal T.5 aims to increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community. Any redevelopment of this site would be required to provide up-to-date code requirements for pedestrian connections to the surrounding right-of-way.

Goal T.6 aims to provide for bicycling as a safe and efficient means of transportation and the applicant proposes to provide bicycle parking for four bicycles. Any future redevelopment of the site would be required to provide bicycle amenities relative to the size of the development. It is important to note that no Transportation Impact Analysis was required for this site. However, future redevelopment of the site may require an updated analysis of potential traffic impacts.

g. Neighborhoods, Housing, and Urban Conservation

Goal NH.1 aims to foster and maintain healthy and diverse urban, suburban, and rural neighborhoods in the Flagstaff region. This redevelopment will help provide a site with updated architectural characteristics and will also provide a more streamlined use allowing for more cars to queue for the carwash. Additionally, any future redevelopment of the site would be required to adhere to current Architectural Design Standards prescribed by code. It is important to note that Industrial uses are not required to adhere to these design standards and would be able to develop the site without a focus on architectural standards.

Goal NH.6 focuses on ensuring redevelopment and infill are compatible and enhance the overall community character. Policy NH.6.1 states that when planning for redevelopment, the needs of existing residents should be addressed as early as possible in the development process. The applicant held a neighborhood meeting and sent letters to surrounding neighbors to inform them of the process. Neither the applicant nor city staff have received any complaints regarding the proposed redevelopment.

iii. Applicable Specific Plan

This area of the city is part of the Woodlands Village Specific Plan. The Specific Plan was adopted in 1990, and the initial development of the site was in conformance with the plan. The northernmost areas within the plan were designated as Business Parks. The plan stated that if the designated Business Park uses are not marketable, the Commerce/Commercial uses may be substituted. Additionally, any future redevelopment in the HC zone would be mainly commercial uses. It is important to note that the Woodlands Village Specific Plan excludes residential uses in the Business Park designated area making this site primed for solely commercial uses. The Zoning Map Amendment request is in conformance with the Woodlands Village Specific Plan.

B. Finding #2

To meet the finding, the proposed amendment must be determined not to be detrimental to the public interest, health, safety, convenience, or welfare of the City of Flagstaff (the "City") and will add to the public good as described in the General Plan.

Staff believes that the proposed project will not be detrimental to the public health, safety, or welfare so long as it is developed in accordance with all codes and requirements.

C. Finding #3

To meet the finding, the affected site must be determined to be physically suitable in terms of design, location, shape, size, and operating characteristics; and the provision of public and emergency vehicle access, public services, and utilities must ensure that the requested zone designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

Staff believes that the proposed application meets this finding. The Inter-Division Staff reviewed the application and concluded that the site was suitable for the proposed development. The IDS team based its conclusion on the review of all applicable codes and requirements. No impact analyses were required for this site.

For all future redevelopment, Staff would review the proposed project through the IDS Review Process to ensure it is in conformance with all current codes. If any issues arise that could endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity then further studies and analyses will be required.

III. Citizen Participation

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with requests for Zoning Map Amendments. In accordance with Arizona State Statute, notice of the public hearing was provided by placing an ad in the Arizona Daily Sun, posting notices on the property, and mailing a notice to all property owners within 300 feet of the site excluding rights-of-ways.

The applicant held one on-site neighborhood meeting regarding this case on April 10th at 6:00 p.m. The architect, the property owners, and one neighboring business owner attended the meeting. The neighboring business owner showed his support for the proposed redevelopment. The second required meeting was waived by the Planning Director. Staff has not received any comments from the public as of the writing of this report.

Attachments:

- Application
- Project Narrative
- Regional Plan Analysis
- Site Plan
- Building Elevations
- Landscape Plan
- Citizen Participation Plan
- Neighborhood Meeting Minutes

ORDINANCE NO. 2023-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF ZONING MAP TO REZONE APPROXIMATELY 1.17 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 1899 S WOODLANDS VILLAGE BOULEVARD, FROM THE LIGHT INDUSTRIAL OPEN (LI-O) ZONE WITH A RESOURCE PROTECTION OVERLAY (RPO) TO THE HIGHWAY COMMERCIAL (HC) ZONE WITH A RESOURCE PROTECTION OVERLAY (RPO), PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, John Reddell Architects, ("the Applicant"), on behalf of the property owner Trampus Mansker, has applied for a Direct to Ordinance Zoning Map Amendment to rezone approximately 1.17 acres of real property located within the City of Flagstaff, a legal description of which is provided in "Exhibit A" attached hereto and incorporated by this reference ("the Property"), from the Light Industrial Open (LI-O) zone with a Resource Protection Overlay (RPO) to the Highway Commercial (HC) zone with a Resource Protection Overlay (RPO) for the purpose of redeveloping the site to remove the existing lube shop and expand the existing car wash use as permitted in the Highway Commercial zone; and

WHEREAS, the Applicant conducted a neighborhood meeting on April 10, 2023 to discuss the proposed Zoning Map Amendment with the surrounding community, as required by Section 10-20.50.40 of the Flagstaff Zoning Code; and

WHEREAS, the Planning and Zoning Commission has formally considered the proposed Direct to Ordinance Zoning Map Amendment application, following proper notice and a hearing on June 14, 2023, and has recommended 5-0 of the requested Zoning Map Amendment application, subject to the Applicant's compliance with a certain condition set forth below; and

WHEREAS, the Council finds that the applicant has complied with all application requirements set forth in Chapter 10-20 of the Flagstaff Zoning Code; and

WHEREAS, the Council has considered the conditions recommended by the Planning and Zoning Commission and has found it to be appropriate for the Property; and

WHEREAS, the Council has read and considered the staff reports prepared by the current Planning Division staff and all attachments to those reports, the Applicant's application, the narrative provided by the Applicant, and all statements made by the Applicant and its representatives or agents during the presentation to Council, and the Council finds that the proposed Direct to Ordinance Zoning Map Amendment, subject to the conditions set forth below, meets the findings required by Section 10-20.50.040(F)(1)(a) of the Flagstaff Zoning Code.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The amendment requested in the application is consistent with and conforms to the goals of the General Plan.

SECTION 3. The amendment requested in the application will not be detrimental to the public interest, health, safety, convenience, or welfare of the City, and will add to the public good as described in the General Plan.

SECTION 4. The affected site is physically suitable in terms of location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities to ensure that the amendment requested in the application will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The Zoning Map designation for the Property is hereby amended from the Light Industrial Open (LI-O) zone to Highway Commercial (HC) zone as set forth in Exhibit A, attached hereto and incorporated by reference.

SECTION 6. That the Zoning Map Amendment be further conditioned upon the Applicant's satisfaction of the following condition:

CONDITION:

1. The subject property must be developed in accordance with the approved site plan. Modifications (other than minor modifications) to the approved site plan may require an amendment to this request within 10 years of the date of the approval. After 10 years the property may be developed under the Zoning Code standards for the Highway Commercial Zone including all permitted and conditional uses and affiliated development standards.
2. All other requirements of the Zoning Code and other City codes, ordinances, and regulations shall be met by the proposed development.
3. In the event the property is rezoned, and the applicant fails to obtain final Civil Plan approval within two (2) years of the effective date of the rezoning ordinance, then the City may schedule a public hearing before the City Council for the purpose of causing the zoning on the Property to revert to the former classification of Light Industrial Open (LI-O) in accordance with A.R.S. § 9-462.01.

SECTION 7. That City staff is hereby authorized to take such other and further measures and actions as are necessary and appropriate to carry out the terms, provisions, and intents of this Ordinance.

SECTION 8. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 9. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
Legal Description

Legal Description:

WOODLANDS VILLAGE UNIT 01 PORTION OF LOT 1 DESCRIPTION AS FOLLOWS:

BEGINNING AT THE NE CORNER LOT1: THENCE SOUTH 87 DEGREES 28 MINUTES 45 SECONDS WEST 170.00'; THENCE SOUTH 2 DEGREES 31 MINUTES 15 SECONDS EAST 303.89';THENCE NORTH 87 DEGREES 28 MINUTES 45 SECONDS EAST 145.00' TO CURVE;THENCE THENCE EAST & NORTHEASTERLY 39.27' ALONG CURVE;THENCE NORTH 2 DEGRESS 31 MINIUTES 15 SECONDS WEST 278.89' TO THE POINT OF BEGINNING.

Address:

1899 S. WOODLANDS VILLAGE BLVD

QS:

Sixteenth: SE Quarter: SE Section: 20, Township: 21N, Range: 07E

John Reddell Architects, Inc.
Architecture Interiors Land Planning

Narrative

The site is at 1899 S. Woodland Village Blvd., the existing Woodland Car Wash. We are requesting a Direct to Ordinance Zoning Map Amendment for the existing Woodlands Carwash. The carwash is an existing non-conforming use in LI-O zoning and our request is a change to HC zoning to conform with the existing car wash.

The existing full-service carwash is to be remodeled as to be an exterior express carwash with self-serve vacuums. The existing oil/lube/detail portion of the building is to be demolished with the addition of office at the entry end of the tunnel and addition of 30' of tunnel length at the exit end. There is also an addition of a vacuum room on the building to relocate the exposed vacuum equipment into an interior space. This will remove the noise generation that is outside and eliminate the noise by the location internal in the building. Self-serve pay stations will be located in (3) lanes on the north side of the site turning south into the existing carwash tunnel and exiting at the south end. When exiting the customer has the option to exit the site onto University Avenue at the existing ingress/egress drive or turn left into the self-vacuum lane to vacuum or exit on Woodlands Village Blvd. at the existing ingress/egress drive.

The fire and sanitation access remains the same as the existing thru the site with the trash enclosure remaining as existing.

The building coverage remains the same with the addition of 2767 sf. of landscape area that results in removal of existing asphalt area. The existing retention area all remains in place with existing drainage flow design in place.

The exterior car wash is a way in which to provide the customer the service of a quality machine exterior car wash and their option to free self serve vacuum at a significant savings over a full car wash cost.

The hours of operation for the car wash, which includes the vacuum, will be from 7:00 am to 9:00 pm. All of the equipment is housed within the building structure including the pump motors and vacuum unit which is one central vacuum.

4992 S. 158th Street Gilbert, Arizona 85298
Phone: 602-531-2854 E-mail:john@reddellarchitects.com

REGIONAL PLAN ANALYSIS
For
OCEAN BLUE CARWASH (WOODLANDS)

1899 S. Woodlands Village Blvd.

Prepared for:
City of Flagstaff
221 W. Aspen Avenue
Flagstaff, AZ 86001

Prepared by:
John Reddell Architects
4992 S. 158th Street
Gilbert, AZ 85298
602-531-2854

Prepared Date:
March 29, 2023

PROJECT SUMMARY

The site is and existing carwash to be remodeled as to provide an improved service with an updated equipment package for the tunnel wash and free self-serve vacuums.

The carwash was developed originally as an approved use under the then existing zoning, after being in service for a number of years a new zoning district overlay was adopted which left the existing carwash as an existing non-conforming use. The client is in process of purchasing the carwash and remodeling the project bringing in the new technology of the carwash industry that will provide up to date service to the community.

REGIONAL PLAN ANALYSIS

We are requesting a rezoning as to bring the existing non-conformance use into conformance which a Regional Plan Analysis is required. The following information summarizes the sections of the Regional Plan that were analyzed and the reasons why this project is supported, since this is an existing project that is operational as a carwash various sections do not pertain to the remodel but how it may be developed in the future after the life of the existing use. This analysis will primarily look at the improvements in modernizing the existing use and the change from LI-O to HC zoning in the Suburban Regional Activity Center.

CHAPTER IV – ENVIROMENTAL PLANNING AND CONSERVATION

CLIMATE CHANGE AND ADAPTATION GOALS AND POLICIES

Goal E&C.4. Integrate available science into policies governing the use and conservation of Flagstaffs natural resources.

Policy E&C.4.2 Develop water use policies that attempt to integrate current best projections of climate change effects on the Colorado Plateau's water resources and emphasize conservation.

We are implementing new technology in the new car wash equipment being installed that provides for the reuse of the water along with the new efficiency of the water saving equipment. This new equipment will be replacing the older equipment that is much less efficient in the water use and reuse.

DARK SKIES GOALS AND POLICIES

Goal E&C.5. Preserve dark skies as an unspoiled natural resource, basis for an important economic sector, and core element of community character.

Policy E&C.5.3. Continue to enforce dark sky ordinances.

Existing non-conforming lighting shall be replaced with new lighting and all new site lighting will adhere to the dark skies lighting code.

ECOSYSTEM HEALTH GOALS AND POLICIES

Goal E&C.6. Protect, restore and improve ecosystem health and maintain native plant and animal community diversity across all land ownerships in the Flagstaff region.

Policy E&C.6.3. Promote protection, conservation, and ecological restoration of the region's diverse ecosystem types and associated animals.

The remodeled site does not extend beyond its existing foot print area and protects the existing pine and also expands on the internal landscape areas to allow for additional landscaping to be added.

NATURAL QUIET GOALS AND POLICIES

Goal E&C.8. Maintain areas of natural quiet and reduce noise pollution.

Policy E&C.8.1. Establish location-appropriate sound management tools with measurable criteria.

In the remodel process we have removed the existing vacuum turbine and motor that is existing exposed on the southside of the property along University Road and we have relocated to an area within the enclosed building structure and provided new technology noise suppression equipment to the vacuum turbine. With these improvements we have removed that noise pollution being exposed.

CHAPTER VI – WATER RESOURCES

WATER DEMAND GOALS AND POLICIES

Goals WR.3. Satisfy current and future human water demands and the needs of the natural environment through sustainable and renewable water resources and strategic conservation measures.

Policy WR.3.3. Integrate sound water conservation and reuse systems into new and updated public facilities.

We are implementing new technology in the new car wash equipment being installed that provides for the reuse of the water along with the new efficiency of the water saving equipment. This new equipment will be replacing the older equipment that is much less efficient in the water use and reuse.

CHAPTER VII – ENERGY

EFFICENT USE OF ENERGY GOALS AND POLICIES

Goal E.1 Increase energy efficiency.

Policy E.I.4. Promote cost-effective, energy-efficient technologies and design in all new and retrofit buildings for residential, commercial, and industrial projects.

With the remodel of the equipment tunnel we are introducing the latest in energy efficient motors and equipment operations also by adding VFD's (variable frequency drive) to our large motors which allows the maximum efficiency to energy requirement to the starting and use of the large motors. The building mechanical being replaced with new hi efficient equipment.

CHAPTER IX - GROWTH AREAS & LAND USE

APPLICABLE TO ALL LAND USES GOALS AND POLICIES

Goal LU.5. Encourage compact development principals to achieve efficiencies and open space preservation.

Policy LU.5.2 Promote infill development over peripheral expansion to conserve environmental resources, spur economic investments, and reduce the cost of providing infrastructure and services.

Remodel of existing use or future redevelopment of the site reuses existing infrastructure and services reducing cost. Conserves environmental resources by promoting infill redevelopment.

SUBURBAN AREA GOALS AND POLICIES

Goal LU.13. Increase the variety of housing options and expand opportunities for employment and neighborhood shopping within all suburban neighborhoods and related policies.

Policy LU.13.6. Include a mix of uses and access to surrounding neighborhoods in new suburban commercial development.

If future re-development occurs it would allow the opportunity of mix uses to the to the surrounding neighborhoods

Policy LU.13.7. Include employment opportunities in all suburban activity centers.

Existing use includes employment and if future re-development occurs it will offer additional employment opportunities.

ACTIVITY CENTERS AND COMMERCIAL CORRIDORS GOALS AND POLICIES

Goal LU.18. Develop well designed activity centers and corridors with a variety of employment, business, shopping, civic engagement, cultural opportunities, and residential choices.

Policy LU.18.3. Redevelop underutilized properties, upgrade aging infrastructure, and enhance rights-of-way and public spaces so that existing activity centers and corridors can realize their full potential.

The remodel will enhance the existing right-of-way by updating the landscape on the perimeter along the street frontages and additional landscape internally

Policy LU.18.6. Support increased densities within activity centers and corridors.

If future re-development occurs will allow for the future increased densities within the suburban corridor.

Policy LU.18.7. Concentrate commercial, retail, services and mixed use within the activity center's commercial core.

Allows for the continuation of the existing service within the commercial core.

Policy LU18.12. Corridors should focus commercial development to the corridor frontage and residential to the back.

The site and existing building and any future re-development would be on the corridor frontage streets buffering residential behind the frontage.

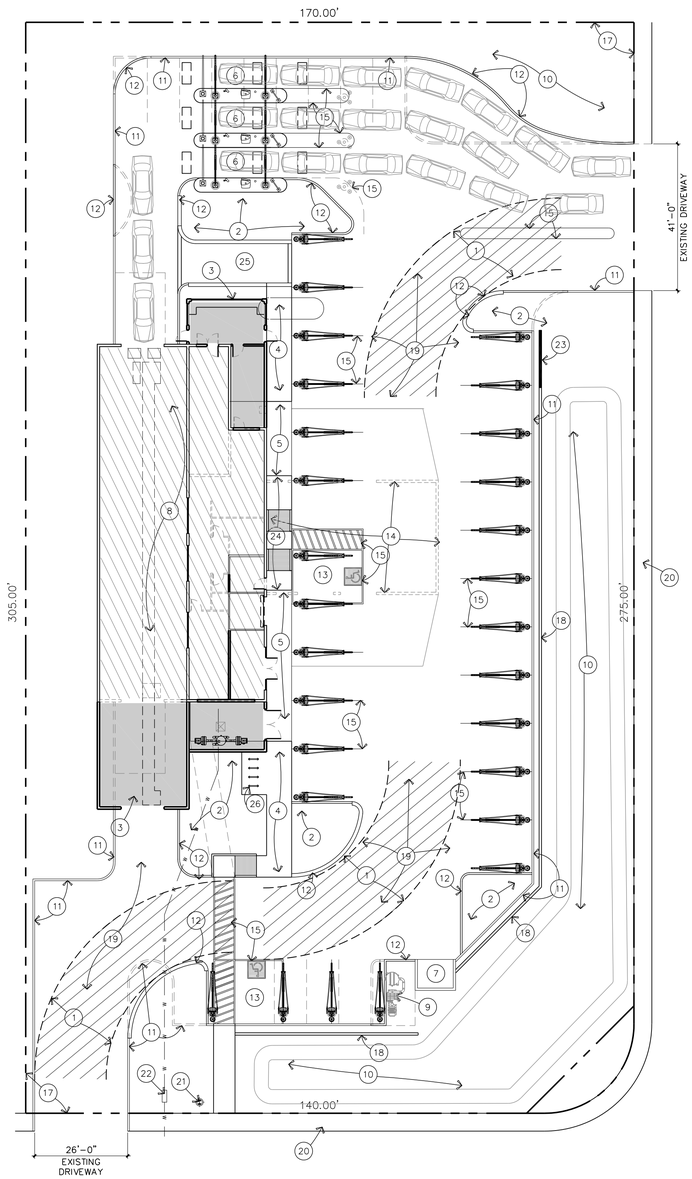
CHAPTER X – TRANSPORTATION

BICYCLE INFRASTRUCTURE GOALS AND POLICIES

Goal T.6. Provide for bicycling as a safe and efficient means of transportation and recreation.

Policy T.6.5. Provide short- and long-term bicycle parking where bicyclist want to travel.

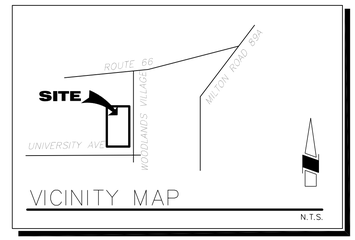
Provide bicycle parking for minimum of (4) bicycles for employees or customers bringing dogs to dog wash.



SITE PLAN

SCALE: 1"= 20'-0"

0' 10' 20' 40'



VICINITY MAP

N.T.S.

PROJECT DATA:

OWNER:
Iron Line Partners – TRAX, LLC
1830 E. Jefferson
Phoenix, AZ 85204
602-315-8275

DEVELOPER:
OCEAN BLUE CARWASH
22037 N. 78th Street
Scottsdale, Az 85255

ARCHITECT:
John Reddell Architects, Inc.
4992 S. 158TH STREET
GILBERT, AZ 85298
(602) 531-2854
Email: john@reddellarchitects.com
Contact: John Reddell

ASSESSOR PARCEL	112-24-001B
EXISTING ZONING	LI-O LIGHT INDUSTRIAL
PROPOSED ZONING	HC
SITE AREA:	51,400 SQ. FT.
LOT (NET)	(1.17 AC)
BUILDING USE	EXTERIOR CARWASH REMODEL

EXISTING CARWASH BUILDING AREA:

LUBE BUILDING DEMO	1,536 S.F.
REMAINING CARWASH BUILDING	4,500 S.F.
NEW ADDITION TO CARWASH BUILDING	1,536 S.F.
TOTAL REMODELED BUILDING S.F.	6,036 S.F.

NUMBER OF STORIES	1
FIRE SPRINKLERS	YES
LANDSCAPE COVERAGE	18%
FAR ALLOWED 3.0 / FAR PROVIDED	.117

LANDSCAPE:	7,287 S.F.
EXISTING LANDSCAPE	18,507 S.F.
DEMOED LANDSCAPE	-559 S.F.
TOTAL REMAINING	17,948 S.F.
NEW LANDSCAPE	+3,176S.F.
NEW TOTAL LANDSCAPE	21,124 S.F.
BUILDING OCCUPANCY	B
BUILDING CONSTRUCTION TYPE	V-B AFES
MAX. BUILDING HEIGHT:	60'-0"
BUILDING HEIGHT PROVIDED:	28'-0"

PARKING:

BICYCLE PARKING REQUIRED: 2	
BICYCLE PARKING PROVIDED: 4	
DRIVE THRU STACKING REQUIRED	3x5 = 15
DRIVE THRU STACKING PROVIDED	3x6= 18 INC. 1 ADA

SITE PLAN NOTES

1. FIRE TRUCK TURNING RADIUS, 35' INNER WHEEL, 55' OUTER WHEEL
2. NEW LANDSCAPE AREA
3. BUILDING ADDITION
4. NEW CONCRETE SIDEWALK
5. EXISTING SIDEWALK TO REMAIN – DO NOT DISTURB
6. NEW COVERED PAYSTATIONS
7. EXISTING TRASH ENCLOSURE LOCATION TO REMAIN
8. EXISTING BUILDING TO REMAIN
9. EXISTING VACUUM – RELOCATE INTO INTERIOR EQUIP. ROOM
10. EXISTING RETENTION AREA TO REMAIN – DO NOT DISTURB
11. EXISTING CONCRETE CURB TO REMAIN
12. NEW CONCRETE CURB – TO MATCH EXISTING
13. HDCP PARKING W/ 5' ACCESS
14. REMOVE LUBE BAY PORTION OF EXISTING BUILDING
15. PAINTED STRIPING – TYP.
16. NOT USED
17. PROPERTY LINE
18. EXISTING 3'-4" HIGH PARKING SCREEN WALL
19. EXISTING ASPHALT PAVING TO REMAIN
20. EXISTING CONCRETE SIDEWALK TO REMAIN – DO NOT DISTURB
21. EXISTING FIRE HYDRANT LOCATION TO REMAIN
22. EXISTING WATER METER LOCATION – TO REMAIN
23. NEW MAS. SCREEN WALL– MATCH EXISTING
24. NEW CONC. SIDEWALK WITH ADA RAMPS
25. BYPASS LANE
26. BICYCLE PARKING

Ocean Blue Express Carwash

1899 S Woodlands Village Blvd.
Flagstaff, AZ 86001

JohnReddellArchitects,Inc.
Architecture Interiors Land Planning
4992 S. 158th Street, Gilbert, Arizona 85298
602-531-2854 Email: john@reddellarchitects.com



Date: 10/27/22
Revisions:

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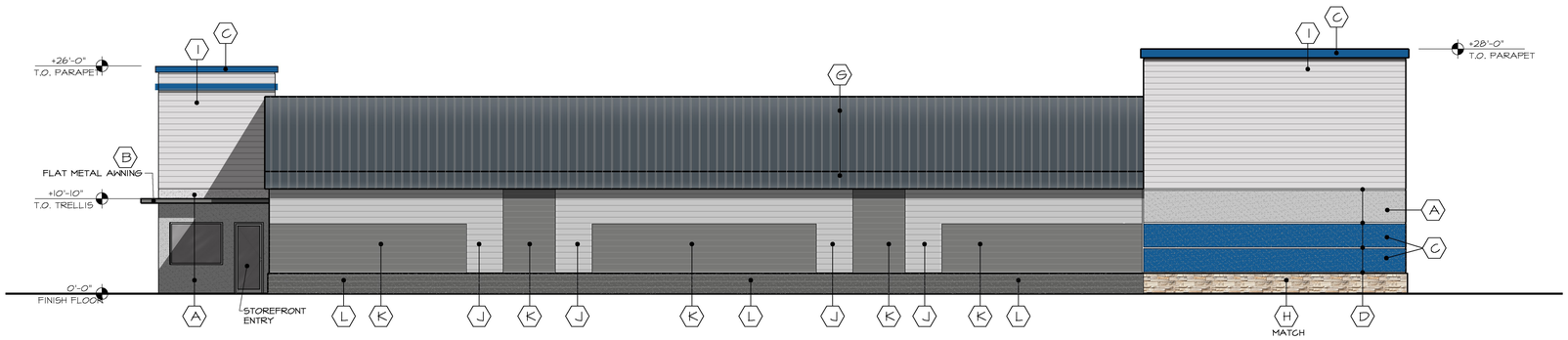
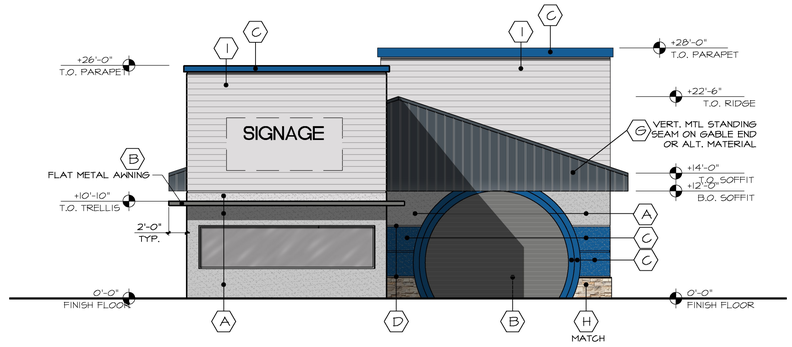


WEST

MATERIAL		
TYPE	S.F.	%
STUCCO	384	11.4
GLASS	56	1.7
METAL	1,060	31.4
STONE	70	2
MASONRY	1,808	53.5
TOTAL	3,378	100



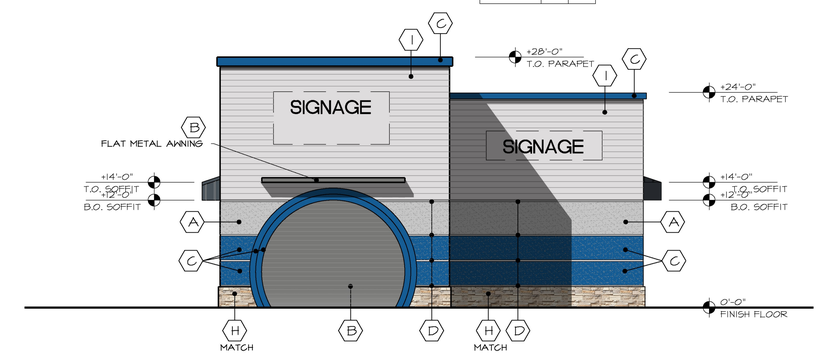
NORTH

MATERIAL		
TYPE	S.F.	%
STUCCO	290	23.4
GLASS	95	7.6
METAL	337	27.2
STONE	17	1.4
MASONRY	501	40.4
TOTAL	1,240	100



EAST

MATERIAL		
TYPE	S.F.	%
STUCCO	332	9.8
GLASS	204	6
METAL	1,150	34
STONE	278	8.2
MASONRY	1,414	42
TOTAL	3,378	100

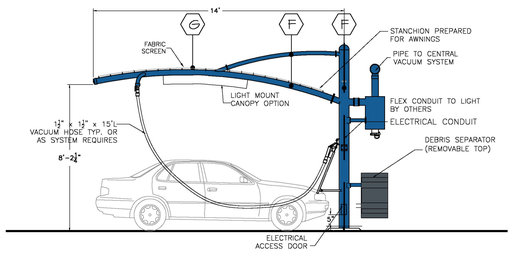


SOUTH

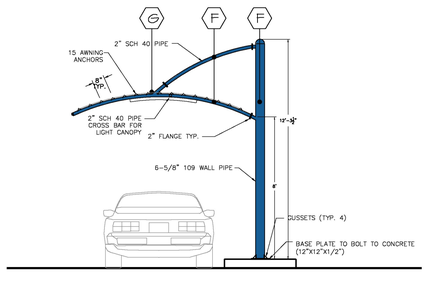
MATERIAL		
TYPE	S.F.	%
STUCCO	336	28
GLASS	0	0
METAL	161	13.5
STONE	70	5.9
MASONRY	630	52.6
TOTAL	1,197	100

BUILDING ELEVATIONS

1/8"=1'-0"



SINGLE STANCHION



EXPRES PAY STATION

CANOPY ELEVATIONS

1/4"=1'-0"

COLOR SCHEDULE

BUILDING STUCCO SYSTEM- SAND FINISH	INTEGRAL DUNN EDWARDS DE 6375 CASTLE ROCK LRV 37	A
BUILDING STUCCO SYSTEM- SAND FINISH & COILING DOOR	INTEGRAL DUNN EDWARDS DE 6364 LEGENDARY GRAY LRV 15	B
BUILDING STUCCO SYSTEM- SAND FINISH & COILING DOOR	INTEGRAL DUNN EDWARDS DE 5846 LAPIS LRV 10	C
FRYE REGLET	NATURAL ALUMINUM	D
VACUUM FRAME	POWDER COATED DUNN EDWARDS DE 5846 LAPIS LRV 10	F
STANDING SEAM METAL PANEL	ATAS METAL ROOFING DUTCH SEAM CHARCOAL GREY (62) SRI 27	G
BUILDING STONE VENEER	EXISTING GULLTURED STONE	H
8-8-16 STD. CMU PAINTED	PAINTED DUNN EDWARDS DE 6381 SILVER BULLET LRV 44	I
EXISTING 8-8-16 CMU PAINTED	PAINTED DUNN EDWARDS DE 6375 CASTLE ROCK LRV 37	J
EXISTING 8-8-16 CMU PAINTED	PAINTED DUNN EDWARDS DE 6364 LEGENDARY GRAY LRV 15	K
EXISTING 8-8-16 CMU SPLIT FACE-PAINTED	PAINTED DUNN EDWARDS DE 6370 CHARCOAL SMUDGE LRV 11	L

NOTE: ALL WINDOW FRAMES SHALL BE NATURAL ALUMINUM W/ CLEAR GLASS

Ocean Blue Express Carwash
1899 S Woodlands Village Blvd.
Flagstaff, AZ 86001

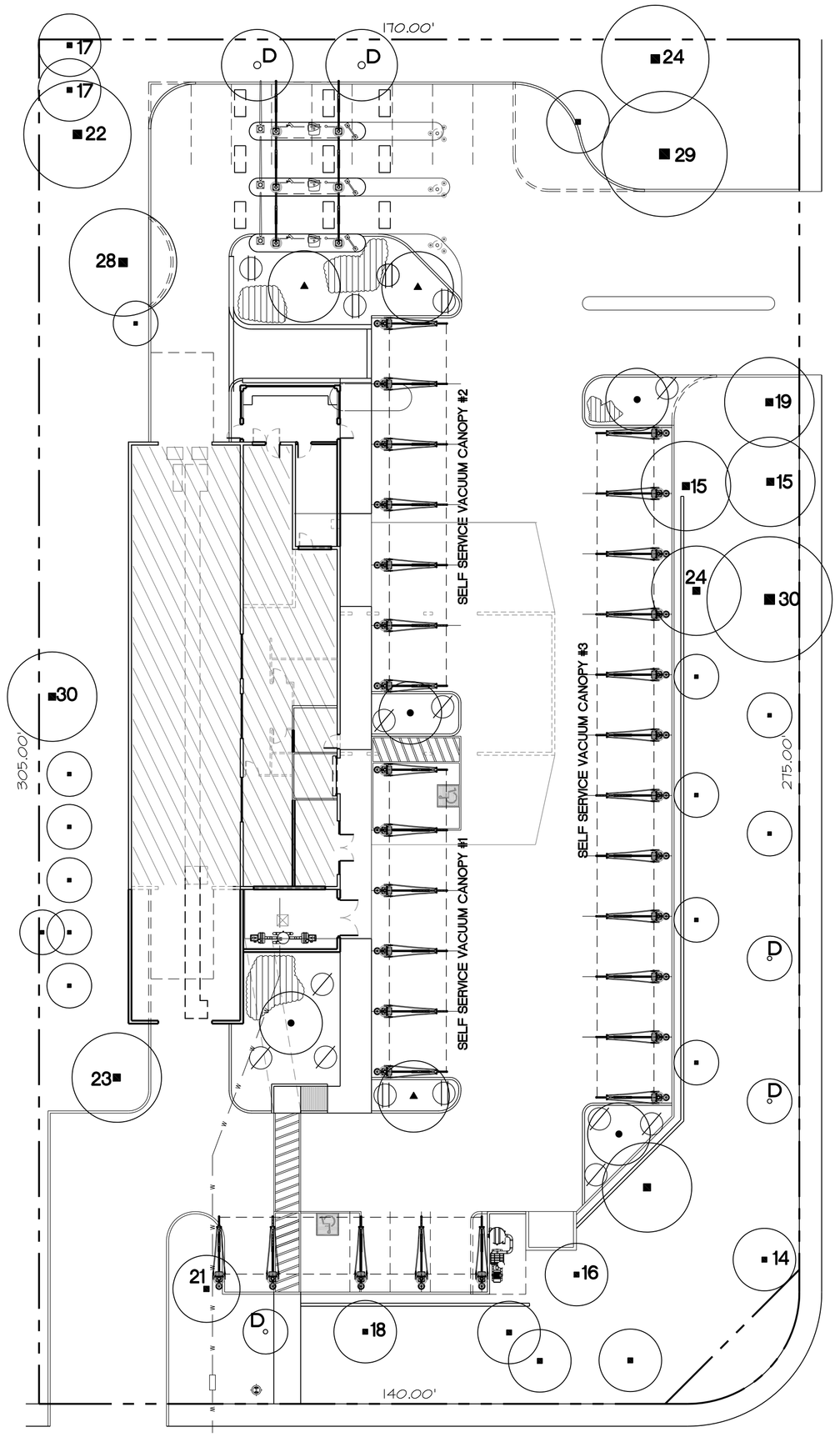
JohnReddell Architects,Inc.
ArchitectuInteriors Land Planning
4992 S. 158th Street, Gilbert Arizona 85298
602-531-2854 Email: john@reddellarchitects.com

Date: 04/25/23
Revisions:

C

PLANT MATERIALS LIST

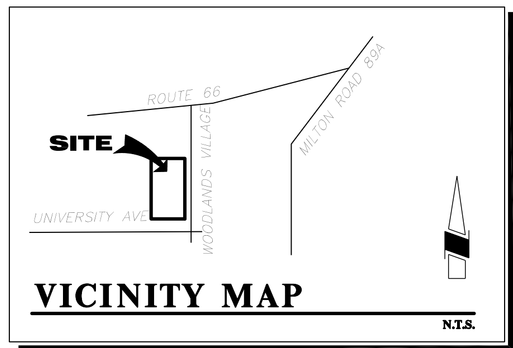
SYMBOL	BOTANICAL NAME COMMON NAME	SIZE	QTY.	REMARKS
○	Deciduous Tree	Existing	5	
■	Ponderosa Pine	Existing	35	
●	Baby Blue Spruce	24" Box	4	7'H x 2.5'W x .75"Cal.
▲	Automn Blaze Flowering Prep	24" Box	3	7.5'H x 4'W x 1.5"Cal.
	SHRUBS:			
∅	Snowmound Spirea	5 Gallon	9	
⍉	'Royal Burgendy BarBarry	5 Gallon	6	
	GROUND COVERS:			
	Acacia redolens 'Desert Carpet' Trailing Acacia	1 Gallon	20	6' O.C. Triangulated



EXISTING LANDSCAPE PLAN

SCALE: 1"= 20'-0"

0' 10' 20' 40'



VICINITY MAP

N.T.S.

PROJECT DATA:

OWNER:

DEVELOPER:
OCEAN BLUE CARWASH
22037 N. 78th Street
Scottsdale, Az 85255

ARCHITECT:
John Reddell Architects, Inc.
4992 S. 158TH STREET
GILBERT, AZ 85298
(602) 531-2854
Email: john@reddellarchitects.com
Contact: John Reddell

ZONING

BUILDING USE: EXTERIOR CARWASH

SITE AREA: 51,400 SQ. FT. (1.17 AC)

ASSESSOR PARCEL: 112-24-001

EXISTING CARWASH BUILDING AREA:

LUBE BUILDING DEMO	1,568 S.F.
REMAINING CARWASH BUILDING	4,460 S.F.
NEW ADDITION TO CARWASH BUILDING	980 S.F.

NEW CANOPY AREA:

PAY STATION CANOPYS	420 S.F.
VACUUM CANOPY #1	854 S.F.
VACUUM CANOPY #2	1,031 S.F.
VACUUM CANOPY #3	1,884 S.F.
TOTAL CANOPIES	4,199 S.F.
TOTAL BUILDING & CANOPY S.F.	9,639 S.F.
	18%

LANDSCAPE:

EXISTING LANDSCAPE	18,507 S.F.
DEMOED LANDSCAPE	-559 S.F.
TOTAL REMAINING	17,948 S.F.
NEW LANDSCAPE	+3,176 S.F.
NEW TOTAL LANDSCAPE	21,124 S.F.

BUILDING OCCUPANCY: B

BUILDING CONSTRUCTION TYPE: V-B AFES

PARKING:

PARKING REQUIRED:

PARKING PROVIDED:

Ocean Blue Express Carwash
1899 S. Woodlands Village Blvd.
Flagstaff, AZ 86001

John Reddell Architects, Inc.
Architecture Interiors Land Planning
4992 S. 158th Street, Gilbert, Arizona 85298
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Date:
Revisions:

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John Reddell Architects, Inc.
Architecture Interiors Land Planning

NEIGHBORHOOD MEETING PLAN
per sections 10-20.30.060 and 10-20.30.070 plan to include the following.

- **Property owners within 300'(list included) and city to provide HOA and Neighborhood Assoc. to notify within 1000' for neighborhood meeting.**
- **Proposed notification by mail (letter included) with site plan and elevation sheets included 10 days prior to meeting.**
- **Meeting shall be open house / workshop for individuals to converse and review plans with design professional and owner.**
- **Each person attending will have direct access to ask questions and provide input on the proposal to the design professional and owner's proposal.**
- **Notification letter (included) for first neighborhood meeting and the second meeting to be scheduled after City review and prior to any public hearing.**
- **Meeting notes and attendance sheet shall be submitted to the Planning Director after each meeting and any clarification of design elements in response to the neighbor's input.**

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John Reddell Architects, Inc.
Architecture Interiors Land Planning

OCEAN BLUE (WOODLANDS) CAR WASH
1899 S. WOODLANDS VILLAGE BLVD.

MINUTES OF NEIGHBORHOOD MEETING 4/10/2023

The neighborhood meeting was held on site at 1899 S. Woodland Village Blvd in the lobby of the existing carwash at 6:00 pm on Monday the 10th of April.

We provided three renderings, site plan and colored elevations at 24 x 36 mounted on boards for easy viewing and discussion. I have included a sign in sheet that has 4 attendees besides myself. There was only one from the public that attended (Steve Jackson) the property owner to the west of the carwash site. We reviewed the project with him and he was very supportive of the remodeled and the rezoning application. He offered his support in anyway that we needed to help get the proposal approved. The other attendees were the current owner and the two purchasing the project. We closed the meeting at 7:00 pm.

We had (1) other inquire by phone call on April 9, 2023 Sunday afternoon to understand the zoning process and request and stated they might show if they had any other questions but did not attend the meeting.

4992 S. 158th Street Gilbert, Arizona 85298
Phone: 602-531-2854 E-mail:john@reddellarchitects.com

10. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Sarah Langley, Public Affairs Director
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Resolution No. 2023-38 and Ordinance No. 2023-16: A resolution of the Flagstaff City Council declaring as a public record that certain document filed with the City Clerk and entitled "2023 Short-Term Rental Code", and an ordinance of the City Council amending the Flagstaff City Code, Title 3 Business Regulations, by adopting by reference that certain document entitled "2023 Short-Term Rental Code".

STAFF RECOMMENDED ACTION:

1) Adopt Resolution No. 2023-38
2) Read Ordinance No. 2023-16 by title only for the final time
3) City Clerk reads Ordinance No. 2023-16 by title only (if approved above)
4) Adopt Ordinance No. 2023-16

Executive Summary:

The City currently regulates short-term rentals (STRs), as found in Flagstaff City Code Chapter 3-12. A short-term rental is a residential dwelling unit rented for less than 30 days. Current regulations are based on A.R.S. Section 9-500.39, as in effect prior to September 22, 2022. All STRs are required to register with the City and non-residential uses of STRs are prohibited.

During the spring of 2022, the state legislature passed SB1168 (vacation rentals; short-term rentals; enforcement). This legislation allows limited regulation of vacation or short-term rentals, including the ability to create a license or permit to operate an STR, as well as defined criteria for when a city may deny or revoke a license or permit. The legislation also outlines allowable regulations related to neighbor notification, emergency contacts, civil penalties, and other areas. Staff has drafted an ordinance to create a short-term rental licensing system based on Council and public input and is seeking Council approval.

The City is not able to regulate STRs except to the extent allowed by state law, and state legislators should be contacted if changes in the law are desired.

Based on comments received at the June 20th Council Meeting, the following changes were made to the draft STR code:

- Revised to provide that the STR owner will need to submit an attestation of completion of neighborhood notification after license issuance.
- Clarified that the City may ask the STR owner to voluntarily disclose whether the unit is owner-occupied.
- The license fee increases by $5 annually starting Nov. 1, 2024, to account for rising costs.
- Clarified that liquor control violations and producing pornography are prohibited uses.

Financial Impact:

Costs associated with the implementation of a Short-Term Rental license will be recovered through an annual license fee currently proposed at $175 per license.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

- Safe & Healthy Community
- Livable Community

Has There Been Previous Council Decision on This:

Yes. The City Council heard updates on potential regulation of short-term rentals on October 11, 2022 and held a work session on May 9, 2023.

Attachments:

Res. 2023-38
2023 Short-Term Rental Code
Ord. 2023-16
Presentation

RESOLUTION NO. 2023-38

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED *"2023 SHORT-TERM RENTAL CODE"*

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full; and

WHEREAS, the City desires to update its short-term rental regulations.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

That certain document known as *"2023 Short-Term Rental Code"* attached hereto as Exhibit A is hereby declared to be a public record, and one (1) paper copy and one (1) electronic copy maintained in compliance with A.R.S. § 44-7041 shall remain on file with the City Clerk and kept available for public use and inspection.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibit A: 2023 Short-Term Rental Code

2023 SHORT-TERM RENTAL CODE

The Flagstaff City Code, Title 3 Business Regulations, is amended by repealing the current Chapter 3-12 Short-Term Rentals, and by replacing it with a new Chapter 3-12 Short-Term Rentals, to read as follows:

CHAPTER 3-12. SHORT-TERM RENTALS

3-12-001-0001	Purpose
3-12-001-0002	Definitions
3-12-001-0003	License Required
3-12-001-0004	License Application
3-12-001-0005	License Term; Renewal
3-12-001-0006	Emergency Point of Contact
3-12-001-0007	Prohibited Uses
3-12-001-0008	Advertisements
3-12-001-0009	Posting on the Property
3-12-001-0010	Neighbor Notification
3-12-001-0011	Reserved
3-12-001-0012	Reserved
3-12-001-0013	Reserved
3-12-001-0014	License Suspensions
3-12-001-0015	Penalties for Verified Violations
3-12-001-0016	Enforcement
3-12-001-0017	Hearing Procedures

3-12-001-0001 PURPOSE

The purpose of the short-term rental (STR) regulations is to protect the health, safety, and welfare of the community and visitors.

3-12-001-0002 DEFINITIONS

For purposes of this chapter:

"City business day" means a day that City Hall is open for business.

"Emergency point of contact" means the owner or individual designated by the owner to: (i) serve as the local twenty-four (24) hour emergency point of contact for the short-term rental; and (ii) respond to complaints and emergencies relating to the short-term rental in a timely manner.

"Nonresidential use" means any use that is not permitted in a residentially zoned district of the City.

"Online lodging marketplace" has the same meaning prescribed in A.R.S. § 42-5076 and generally means a person that provides a digital platform for compensation through which an unaffiliated third party offers to rent lodging accommodations in this State to an occupant, including a transient.

"Online lodging operator" has the same meaning as prescribed in A.R.S. Section 42-5076 and means a person that is engaged in the business of renting to an occupant, including a transient as defined in A.R.S. Section 42-5070, any lodging accommodation in this State offered through an online lodging marketplace.

"Owner" means any person who, alone or with others, has title or interest in a property, dwelling unit, or portion thereof, with or without actual possession of the short-term rental.

"Owner's designee" means any person or persons with the charge, care, or control of any property, dwelling unit, or portion thereof and includes the "emergency point of contact."

"Person" means any individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other entity of any kind.

"Short-term rental" or "STR" means any individually or collectively owned single-family or one-to-four-family house or dwelling unit, accessory dwelling unit, or any unit or group of units in a condominium or cooperative that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under A.R.S. Section 42-12001. A short-term rental shall also include a dwelling unit in a multiple-family development offered for rent as transient lodging. Each unit that is separately leased is a STR. A short-term rental does not include a timeshare managed pursuant to A.R.S. Section 33-2201 et seq.

"Transaction privilege tax license" is the license issued by the State of Arizona pursuant to A.R.S., Title 42.

"Transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or use of lodging space on a daily or weekly basis, or any other basis for less than thirty (30) consecutive days.

"Verified violation" means a final adjudication finding of guilt or civil responsibility for violating any state law or City Code provision relating to a purpose prescribed in A.R.S. Section 9-500.39 subsection B or K that has been finally adjudicated (a final decision of a court or administrative hearing officer with no further right of appeal).

“Written notice” includes but is not limited to a written notice sent by electronic means, United States certified mail-return receipt requested, or hand delivery to the address on file for the STR. If written notice is served by electronic means, it is deemed received on the date sent.

3-12-001-0003 LICENSE REQUIRED

A. License required. It is unlawful to rent or offer to rent a short-term rental (STR) without having first obtained a valid STR license issued under this chapter. A separate license is required for each STR.

B. Prima facie evidence. Representations or advertisements including online listings that reference the property, house or dwelling unit location within the City as available for transient lodging is prima facie evidence that an owner is offering to rent or operating a STR in the City.

C. Violations. In addition to any penalty or fine that may be imposed under section 3-12-001-0015 (Penalties for Verified Violations), the owner shall immediately cease operations of the STR until a valid license is obtained.

3-12-001-0004 LICENSE APPLICATION

A. License applications. The owner of a STR shall apply for a license on an application form supplied by the City. The City Management Services Director may require use of an online licensing system. The application must be signed by the applicant and shall contain the following information:

1. The physical address of the STR property.

2. The name, address, email address, and telephone number of the owner of the STR. If the property owner is an entity, the legal name of the entity and its state of incorporation. The owner’s email address and telephone number will not be public information when the owner is not the emergency point of contact, unless disclosure is required by law.

3. The name, address, email address, and telephone number of the owner’s designee, if any.

4. The name, address, email address, and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact. The emergency point of contact shall be public information.

5. The transaction privilege tax (“TPT”) license number issued for the STR by the State of Arizona, including the location code (where applicable).

6. A statement that the owner acknowledges and agrees that the owner shall comply with all applicable laws, regulations, and ordinances in operating the STR.

7. A statement that the owner and each owner designee is not a registered sex offender, has not been convicted of any felony act that resulted in death or serious physical injury, and has not been convicted of any felony use of a deadly weapon within the past five (5) years.

8. ~~An attestation~~A STATEMENT that the owner~~ has completed~~ SHALL TIMELY COMPLETE the neighborhood notification required under section 3-12-001-0010. ~~The attestation shall include: (a) the address of each property notified; (b) a description of the manner which the owner chose to provide notification to each property so notified; (c) the name and contact information of the person attesting to compliance.~~

9. A license fee in the amount established in Chapter 3 - User Fees. The license fee is non-refundable, shall not be pro-rated, and is for an entire year, regardless of whether or not the STR is operated for an entire year.

10. Proof of lawful presence in the United States in accordance with A.R.S. Sections 1-502 and 41-1080, unless exempted by A.R.S. Section 41-1080(B).

11. The application may request that the owner of the STR VOLUNTARILY indicate whether the STR is owner-occupied.

B. License approval. The City shall promptly issue or deny a STR license after receipt of a complete application.

C. License denial. The City may deny a STR license for any of the following reasons:

1. The applicant failed to provide the required application information;

2. The applicant failed to pay the license fee;

3. The applicant provided false information;

4. The owner or owner's designee: (i) is a registered sex offender; (ii) has been convicted of any felony act that resulted in death or serious physical injury; or (iii) has been convicted of any felony use of a deadly weapon within five (5) years of submitting the application; or

5. At the time of application, the owner has a suspended license for the same STR.

D. Notice of denial and appeals. City Code Compliance shall give written notice of the license denial of an application to the applicant. The notice shall inform the applicant of the right to appeal the denial to the City Manager within ten (10) calendar days and request a hearing pursuant to Section 3-12-001-0017 (Hearing Procedures).

E. Violations. In addition to any other penalty imposed under section 3-12-001-0005 (Penalties for Verified Violations), the City may impose a civil penalty of $1,000 per month against the owner if the owner or owner's designee fails to apply for a license within 30 days after receiving written notice of the failure to comply with licensing requirements.

3-12-001-0005 LICENSE TERM, RENEWAL

A. License term. A STR license issued under this chapter shall be valid for one (1) year from the date of issuance unless suspended or revoked.

B. Renewal. The owner shall apply for a STR license renewal and pay a renewal license fee via the STR license account.

C. Non-transferable. A STR license is non-transferable and non-assignable.

D. License information on file. The owner shall maintain current and accurate information in its online STR license account.

3-12-001-0006 EMERGENCY POINT OF CONTACT

A. Response time. When requested by a police officer, the emergency point of contact must be on the STR premises, or be available over the phone or text, within sixty (60) minutes of the request related to an emergency that requires police response. For purposes of this section, an emergency includes but is not limited to securing a crime scene, cleanup of a biohazard, cleanup of hazardous materials, or any other circumstances requiring immediate action to protect public health and safety, or property.

B. Violations. In addition to any other penalty imposed under section 3-12-001-0005 (Penalties for Verified Violations), the City may impose a civil penalty of $1,000 against the owner for every 30 days the owner fails to provide or maintain current emergency point of contact information on file with the City as required by Section 3-12-001-0004(A)(4). The City shall provide at least thirty (30) days' written notice to the STR owner before imposing the initial civil penalty.

3-12-001-0007 PROHIBITED USES

A. Prohibited uses. No person may use a STR for any of the following:

1. Nonresidential uses including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

2. Housing sex offenders, sex trafficking, operating or maintaining a sober living home, selling illegal drugs, liquor control VIOLATIONS, ~~or~~ PRODUCING pornography, obscenity, nude or topless dancing and other adult oriented businesses.

3. Any other use that violates applicable laws, including but not limited to local zoning, building and fire codes, health and sanitation, and noise regulations.

B. Prima facie evidence. Representations or advertisements including online listings that advertise one of the prohibited uses under this section that reference a STR located within the City is prima facie evidence that a STR is operating in violation of this section.

C. Nothing herein shall be construed to prohibit a group home for persons with disabilities as allowed by the Americans with Disabilities Act.

3-12-001-0008 ADVERTISEMENTS

The owner shall display the City short-term rental license number on each advertisement for the STR.

3-12-001-0009 POSTING ON THE PROPERTY

The owner of the STR shall display a Notice inside the STR within ten (10) feet of the primary entrance to the STR. The Notice will read as follows:

NOTICE

It is unlawful to use this property for any nonresidential use, special events that otherwise require a permit or license, retail business, restaurant, event center, banquet hall or other uses prohibited by Flagstaff City Code 3-12-001-0007 (Prohibited Uses).
Emergency Contact: (name and phone number)
City Complaints Hotline #:
City Short-Term Rental License #:

The City Management Services Director may include additional information in the Notice related to the STR or City contact information.

3-12-001-0010 NEIGHBOR NOTIFICATION

A. Neighbor notification. Prior to offering a STR for rent for the first time, the owner shall provide neighbor notification to each single-family residential property adjacent to the STR, directly across from the STR, directly behind the STR, diagonally across the street of the STR, and diagonally behind the STR (touching a point on the adjacent STR property). Prior to offering a STR located within a multi-family residential building, the owner shall provide neighbor notification to residents on the same building floor as the STR, and the units directly above and below the STR. The neighbor notification shall be provided in writing in the form required by the City and shall include the following information:

1. The STR license number issued by the City;

2. The physical address of the STR; and

3. The name, physical address, e-mail address, and twenty-four (24) hour telephone number of the emergency point of contact.

B. ATTESTATION OF COMPLIANCE. UPON COMPLETION OF THE NEIGHBORHOOD NOTIFICATION, THE LICENSEE SHALL SUBMIT TO THE CITY AN ATTESTATION OF COMPLIANCE WHICH SHALL INCLUDE: (A) THE ADDRESS OF EACH PROPERTY NOTIFIED; (B) A DESCRIPTION OF THE MANNER WHICH THE OWNER CHOSE TO PROVIDE NOTIFICATION TO EACH PROPERTY SO NOTIFIED; (C) THE NAME AND CONTACT INFORMATION OF THE PERSON ATTESTING TO COMPLIANCE. THE ATTESTATION SUBMITTAL DATE SHALL BE PRIMA EVIDENCE AS THE DATE THE NEIGHBORHOOD NOTIFICATION WAS COMPLETED.

~~B.~~C. Additional neighbor notifications. The owner shall provide an additional neighbor notification within ten (10) days after any change in the emergency point of contact on file with the City and at time of license renewal.

3-12-001-0011 RESERVED

3-12-001-0012 RESERVED

3-12-001-0013 RESERVED

3-12-001-0014 LICENSE SUSPENSIONS

A. License suspensions. The City may suspend a STR license for a period of up to twelve (12) months for any of the following:

1. Three (3) verified violations within a twelve (12) month period, not including any aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.

2. One (1) verified violation that results in or constitutes any of the following:

a. A felony offense committed at or in the vicinity of a STR by the owner of the vacation rental or by the owner's designee;

b. A serious physical injury or wrongful death at or related to a STR resulting from the knowing, intentional or reckless conduct of the owner of the vacation rental or the owner's designee;

c. The owner of the STR or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, sex trafficking, or prostitution, or operating or maintaining a sober living home; or

d. The owner of the STR or the owner's designee knowingly or intentionally allowing the use of a STR for a special event that would otherwise require a permit or license pursuant to the City code or a state law or rule or for a retail, restaurant, banquet space or other similar use.

B. Notice of license suspension and appeals. City shall give written notice of the license suspension to the owner of the STR. The notice shall inform the owner of the right to appeal the license suspension within ten (10) calendar days to the City Manager and request a hearing pursuant to Section 3-12-001-0017 (Hearing Procedures). An appeal under this section does not operate as a stay of the license suspension. This section is not applicable to actions for judicial relief brought pursuant to subsection C.

C. Judicial relief. Notwithstanding any, any attempted or completed felony act, arising from the occupancy or use of a STR that results in a death, or actual or attempted serious physical injury, shall be grounds for judicial relief in the form of a suspension of the property's use as a STR for a period that shall not exceed twelve (12) months.

D. Authority. The City Attorney may initiate proceedings in the city court or other court of competent jurisdiction to enforce this section.

3-12-001-0015 PENALTIES FOR VERIFIED VIOLATIONS

A. Penalties. Notwithstanding any other law or penalties assessed, the City may impose the following enhanced civil penalties upon the owner of a STR if the owner receives one or more verified violations related to the same STR within a 12-month period:

1. $500 for the first verified violation.

2. $1,000 for the second verified violation.

3. $3,500 for a third and any subsequent verified violation.

B. If multiple violations arise out of the same response to an incident at a STR, those verified violations are considered one verified violation for the purpose of imposing a penalty.

C. If multiple violations under section 3-12-001-0008 (Advertisements) for the same STR have occurred within a period of 30 days, then, upon a showing that the STR has come into compliance with such section, those verified violations shall be considered as one verified violation for the purpose of imposing a penalty.

D. If multiple violations under section 3-12-001-0010 (Neighbor Notification) for the same STR have occurred within a period of 30 days, then upon a showing that the STR has come into compliance with such section, those verified violations shall be considered as one verified violation for the purpose of imposing a penalty.

3-12-001-0016 ENFORCEMENT

A. Enforcement authority. The City Manager, the City Police Department, City Code Compliance Manager, City Attorney or their designees are delegated authority to enforce this chapter.

B. Notice of violation. The City may send a written notice of violation of any provision of this chapter to the owner or owner's designee. The notice of violation shall inform the owner of:

1. The nature of the violation(s).

2. The section(s) of the code alleged to have been violated.

3. Possible fines or penalties that may be assessed by the City.

4. The time for curing any deficiency or violation so as to avoid fines or penalties.

5. The right to appear at a hearing on a specific date and time to contest the notice of violation, fines, or penalties.

6. The effect of failure to timely request a hearing or appear.

a. A failure of the person request a hearing within ten (10) calendar days from receipt of the written notice of violation, shall constitute a waiver of the right to a hearing or to challenge the validity of the City notice of violation and assessment of fines or penalties. The Hearing Officer may render a final decision notwithstanding the owner's failure to appear.

b. Similarly, a failure of the person to request a hearing within ten (10) calendar days from receipt of the written notice of the denial or suspension of a license shall constitute a waiver of the right to a hearing or to challenge the validity of the denial or suspension of a license. The Hearing Officer may render a final decision notwithstanding the owner's failure to appear.

7. The hearing procedures, which are set forth in section 3-12-001-0017 (Hearing Procedures) of the City Code.

C. Civil offenses. Each violation of this chapter shall constitute a civil offense. Each day that a violation occurs shall be a separate offense.

D. Owner liability. The failure of any owner's designee to comply with this chapter shall not relieve the owner of liability under this chapter.

E. Remedies cumulative. The remedies in this chapter are cumulative and the City may proceed under one or more such remedies.

3-12-001-0017 HEARING PROCEDURES

A. Hearing officer. The City Manager shall appoint an independent Hearing Officer to preside over any hearing under this chapter.

B. Hearing date. Upon receipt of a timely appeal or request for a hearing, the Hearing Officer shall schedule a hearing to occur within thirty (30) days or as soon as practicable. The hearing date may be continued or rescheduled upon good cause shown.

C. Information submittal. Each party shall submit the following to the Hearing Officer and to the opposing party at least ten (10) days prior to the scheduled hearing date:

1. Factual bases for contesting City's written notice of violation or decision;

2. List of persons expected to testify, and a brief summary of each person's expected testimony;

3. A list of and copy of all exhibits;

4. Notice as to whether the party will be represented by legal counsel at the hearing;

5. If desired, a request that the hearing be recorded by an electronic hearing device.

D. Informal process. The hearing shall be conducted in an informal process to determine whether there is a sufficient factual and legal basis to support the City's notice of violation, fines to be imposed if any, or decision that is being appealed. The rules of evidence shall

not apply, provided, however, that the decision of the Hearing Officer shall in all cases be based upon substantial and reliable evidence. All parties to the hearing shall have the right to present evidence and conduct cross-examination. The City shall present its case first. The Hearing Officer may issue orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand. The Hearing Officer may ask questions. The City shall have the burden of establishing by a preponderance of the evidence that a violation has occurred or that its action was merited.

E. Final decision. The Hearing Officer shall issue its written decision within thirty (30) days from the hearing date. The decision shall include factual findings. The decision of the Hearing Officer is final.

F. Waiver. A failure of the person who received written notice in compliance with the requirements of this chapter to timely request a hearing or the failure to appear at a scheduled hearing shall constitute a waiver of the right to a hearing or to challenge the validity of the City notice of violation or action. The Hearing Officer may render a final decision notwithstanding the person's failure to appear at the hearing.

The Flagstaff City Code, Title 3 Business Regulations, Chapter 3-01 Business License Regulations, is hereby amended by deleting those provisions shown in strike-out, and adding those provisions shown in capitalized underlined text:

3-01-001-0003 LICENSE EXEMPTIONS

A. The following persons shall not be required to obtain a business license:

1. Any person defined in Section 3-05-002-0270 as a Federally exempt organization, governmental entity, proprietary club or public educational entity;

2. Any person licensed under Chapter 3-07 (Special Licenses) or 3-09 (Cable);

3. Any person with a valid franchise agreement with the City;

4. Any person licensed under Chapter 3-08 (Sexually Oriented Businesses);

5. ANY PERSON WITH A VALID SHORT-TERM RENTAL LICENSE ISSUED UNDER CHAPTER 3-12 (SHORT-TERM RENTALS);

~~5.~~6. Sidewalk vendor with a permit issued under Section 8-03-002-0004 (Sidewalk Vending Carts);

~~6.~~7. Any person with a valid special event permit issued under Chapter 8-12 (Special Events);

~~7.~~8. Any person with a valid temporary use permit issued under Section 10-20.40.150 (Temporary Use Permits);

~~8.~~ 9. A fair vendor at a prescheduled fair, convention, celebration, promotion or other public gathering, where the organizer has obtained a special event permit issued under Chapter 8-12 (Special Events) or temporary use permit issued under Section 10-20.40.150 (Temporary Use Permits).

*****

The Flagstaff City Code, Title 3 Business Regulations, Chapter 3-10 User Fees, is hereby amended by deleting those provisions shown in strike-out, and adding those provisions shown in capitalized underlined text:

3-10-001-0008 License Fees

The user fees of the Management Services Division shall be as follows:

Fee Type	Fee per Each
Business license – annual	$8
Business license – renewal	$8
Business license – penalty failure to obtain/renew	50% of fee
Transient merchant approval	$0
Transaction privilege and use tax license (see Section 3-05-003-0320)	
Commercial ground transportation – per taxi	$38
Commercial ground transportation – per motor coach	$38
Commercial ground transportation – annual renew	$8
Adult oriented business (see Section 3-08-001-0006)	
Adult oriented business renew (see Section 3-08-001-0006)	
Scavenger waste permit	$24
SHORT TERM RENTAL LICENSE – ANNUAL (SEE CHAPTER 3-12) * SHORT TERM RENTAL LICENSE FEE WILL INCREASE BY $5 ANNUALLY ON NOVEMBER 1, COMMENCING IN 2024.	$175*

ORDINANCE NO. 2023-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3 BUSINESS REGULATIONS, BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED *"2023 SHORT TERM RENTAL CODE"*; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City may regulate short-term rentals to the extent allowed by A.R.S. Section 9-500.39; and

WHEREAS, the City desires to update its short-term rental regulations to protect the health, safety, and welfare of City residents and visitors; and

WHEREAS, the City has published notice of a proposed new short-term rental licensing fee pursuant to A.R.S. Section 9-499.15.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

That certain document known as *"2023 Short-Term Rental Code"*, one(1) paper copy and (1) electronic copy of which are on file in the office of the City Clerk of the City of Flagstaff, Arizona, has been declared a public record by Resolution No. 2023-38 of the City of Flagstaff, Arizona, and is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

The Flagstaff City Code, Title 3 Business Regulations is hereby amended by amending Chapter 3-12 Short-Term Rentals, Chapter 3-01 Business License, and Chapter 3-10 User Fees, all as set forth in the *2023 Short-Term Rental Code*.

SECTION 2. Penalties.

Any person found in violation of this ordinance shall be guilty of a civil infraction and shall be fined a sum of $500.00, $1,000.00, or $3,500.00 as set forth in the *2023 Short-Term Rental Code* (Chapter 3-12 of the Flagstaff City Code), which penalty clauses are set forth in the attached Exhibit A. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part

of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 6. Effective Date.

This Ordinance shall be effective November 1, 2023.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Attachment:

Exhibit A - Short-Term Rental Code – Penalty Clauses

EXHIBIT A
Short-Term Rental Code – Penalty Clauses

*** Text is omitted for purposes of brevity.

3-12-001-0002 DEFINITIONS

****

"Verified violation" means a final adjudication finding of guilt or civil responsibility for violating any state law or City Code provision relating to a purpose prescribed in A.R.S. Section 9-500.39 subsection B or K that has been finally adjudicated (a final decision of a court or administrative hearing officer with no further right of appeal).

***

3-12-001-0004 LICENSE APPLICATION

***

E. Violations. In addition to any other penalty imposed under section 3-12-001-0005 (Penalties for Verified Violations), the City may impose a civil penalty of $1,000 per month against the owner if the owner or owner's designee fails to apply for a license within 30 days after receiving written notice of the failure to comply with licensing requirements.

3-12-001-0006 EMERGENCY POINT OF CONTACT

***

B. Violations. In addition to any other penalty imposed under section 3-12-001-0005 (Penalties for Verified Violations), the City may impose a civil penalty of $1,000 against the owner for every 30 days the owner fails to provide or maintain current emergency point of contact information on file with the City as required by Section 3-12-001-0004(A)(4). The City shall provide at least thirty (30) days' written notice to the STR owner before imposing the initial civil penalty.

3-12-001-0015 PENALTIES FOR VERIFIED VIOLATIONS

A. Penalties. Notwithstanding any other law or penalties assessed, the City may impose the following enhanced civil penalties upon the owner of a STR if the owner receives one or more verified violations related to the same STR within a 12-month period:

1. $500 for the first verified violation.

2. $1,000 for the second verified violation.

3. $3,500 for a third and any subsequent verified violation.

B. If multiple violations arise out of the same response to an incident at a STR, those verified violations are considered one verified violation for the purpose of imposing a penalty.

C. If multiple violations under section 3-12-001-0008 (Advertisements) for the same STR have occurred within a period of 30 days, then, upon a showing that the STR has come into compliance with such section, those verified violations shall be considered as one verified violation for the purpose of imposing a penalty.

D. If multiple violations under section 3-12-001-0010 (Neighbor Notification) for the same STR have occurred within a period of 30 days, then upon a showing that the STR has come into compliance with such section, those verified violations shall be considered as one verified violation for the purpose of imposing a penalty.

3-12-001-0016 ENFORCEMENT

***

C. Civil offenses. Each violation of this chapter shall constitute a civil offense. Each day that a violation occurs shall be a separate offense.

D. Owner liability. The failure of any owner's designee to comply with this chapter shall not relieve the owner of liability under this chapter.

E. Remedies cumulative. The remedies in this chapter are cumulative and the City may proceed under one or more such remedies.

Short Term Rental Ordinance

June 20, 2023

TEAM FLAGSTAFF

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Agenda

1. General overview of license program
2. Present ordinance to license short term rentals, and ordinance updates made after work session
3. Consider 1st reading of ordinance

License Program Highlights

- Regulates residential units rented for less than 30 days
- Annual license with fee of $175
- Application through existing LodgingRev software, managed by Customer Service
- Requires annual notification of neighbors
- Provides emergency contact information
- Specifies grounds for license approval, denial and suspension
- Creates penalties for non-compliance

Ordinance Updates

Application

- Revised to require owner to submit a statement that owner is not a sex offender or convicted of certain felonies (versus simply stating that the owner may not be a sex offender or convicted of certain felonies)
- Revised to require owner to submit an attestation that neighborhood notification has been completed (versus promising to complete it later after the license is issued but before offering a STR for rent)

Ordinance Updates

Application

- Added that the owner's email address and telephone number will not be public information unless the owner is designated as the emergency point of contact.
- Added that the application may request the owner to disclose whether the STR is owner-occupied.

Ordinance Updates

Prohibited Uses

- Added a statement that a STR may not be used for sex trafficking.

Neighbor Notification

- Clarified that any neighboring property touching the STR property needs to be notified (including those behind the STR).
- Added that in a multi-family building, notice must be provided to units directly above and below the STR (not just on same floor).

Ordinance Updates

Posting on the Property

- Clarified that notice of the STR license number and prohibited uses must be posted inside the STR
- Removed the owner's name from the notice
- Removed the emergency contact's email address
- Added the City's emergency/complaint hotline telephone number

Ordinance Updates

Verified Violations

- Added that if the owner knowingly or intentionally allows sex trafficking in the STR, then this is grounds for suspension of a license

Penalties for Verified Violations

- Clarified that STR owner penalties for verified violations are enhanced penalties (state law refers to them as enhanced)

Schedule of Events

Event	Date
SB1168 signed by Governor	July 2, 2022
Council gave staff direction to begin creating a Short-Term Rental Licensing System in Flagstaff	Oct. 11, 2022
Open House to gather feedback from the community on draft ordinance	March 27, 2023
Rate analysis completed	April 21, 2023
60-day fee notice	April 21, 2023
Staff presents draft ordinance to Council, incorporating community feedback	May 9, 2023
1st read of ordinance	June 20, 2023
2nd read of ordinance and fee adoption	July 3, 2023
Ordinance effective date - Fee payment and licensing process begins	Effective Nov. 1, 2023

TEAM FLAGSTAFF
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Questions and feedback

TEAM FLAGSTAFF

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10. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	David McIntire, Community Investment Director
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Ordinance No. 2023-14: An ordinance of the City Council of the City of Flagstaff authorizing the acquisition of real property for the Lone Tree Overpass Project; providing for delegation of authority, subsequent City Council approvals, severability, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-14 by title only for the final time
2) City Clerk reads Ordinance No. 2023-14 by title only (if approved above)
3) Adopt Ordinance No. 2023-14

Executive Summary:

In 2021, City Council passed Ordinance 2021-15, authorizing the acquisition of portions or all of properties needed for the Lone Tree Overpass Project. As design has progressed it has been determined that additional parcels will also be impacted. This ordinance is supplemental to Ordinance 2021-15, and authorizes the City to acquire the needed real property to complete the Lone Tree Overpass Project.

Financial Impact:

Costs of these acquisitions are not yet known. Funds for this will come from the funding provided for this project by Proposition 420 which established a tax and dedicated the use of the revenues for costs associated with this project.

Policy Impact:

There is no policy impact.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Sustainable, Innovative Infrastructure

Regional Plan

Goal T.I. Improve mobility and access throughout the region.

Has There Been Previous Council Decision on This:

Yes, Ordinance 2021-15 was approved in June of 2021, and authorized the acquisition of real property for this project previously. Further evolution of the design has identified additional acquisitions that are required to complete the project and this new ordinance is supplemental to the original.

Background/History:

In November of Flagstaff voters passed Proposition 420, to establish a local transaction privilege tax rate for 20 years to pay for the Lone Tree Overpass Project. That project continues to progress and the design now shows impacts on parcels that were not included in the original acquisition ordinance in 2021. This ordinance will authorize the City to work to acquire the necessary rights to complete the project.

Attachments: Ord. 2023-14
Exhibit A to Ordinance
Exhibit B to Ordinance

ORDINANCE NO. 2023-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR THE LONE TREE OVERPASS PROJECT; PROVIDING FOR DELEGATION OF AUTHORITY, SUBSEQUENT COUNCIL APPROVALS, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Article VII, Section 5 of the Flagstaff City Charter provides that the City acquire real property by ordinance; and

WHEREAS, the City of Flagstaff desires to acquire certain real property for the Lone Tree Overpass Project; and

WHEREAS, in November, 2018 Flagstaff voters passed Proposition 420, to establish a 0.23% local transaction privilege tax (sales) tax rate for a 20 year period, on the gross revenues derived from engaging in business activities within the city of Flagstaff, and dedicating use of the revenues to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian, bicycle, and street connections ("Lone Tree Overpass Project"); and

WHEREAS, the City of Flagstaff has programmed funding for the Lone Tree Overpass Project in its 5-year Capital Improvement Program; and

WHEREAS, the City Council has approved a contract with Ames Construction, Inc., a Minnesota corporation, which includes an option for property acquisition services for the Lone Tree Overpass Project ("agent"); and

WHEREAS, the City Council has previously approved Ordinance 2021-15 which authorized the acquisition of all or part of parcels associated with the Lone Tree Overpass Project, and further design has identified additional parcels that could be impacted which created the need for a supplemental ordinance.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General

The City of Flagstaff shall acquire any portion or all of the real property for the Lone Tree Overpass Project as generally described in Exhibit A and located as shown in Exhibit B, and per the civil engineering plans approved by the City Engineer ('the Properties").

SECTION 2. Delegation of Authority.

The Mayor, City Manager, City Attorney, City Clerk, Finance Director, City Engineer, Real Estate

Manager, or their delegates or agents, are hereby authorized and directed to take all steps and execute all documents necessary to acquire the Properties and to carry out the purpose and intent of this ordinance, and to acquire the Properties through purchase, exchange, gift, donation, or dedication.

SECTION 3. Subsequent Council Approvals.

The City Council may approve any condemnation necessary for public use, including site access, by resolution referencing this ordinance, and including a legal description and map of the properties sought to be condemned, which resolution shall be immediately effective.

Any purchase contract for a Property of $50,000 or more is subject to City Council approval at a future council meeting.

Any deed or other transfer of real property acquired pursuant to this ordinance will be presented to the City Council at a future council meeting for formal acceptance.

SECTION 4. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____

MAYOR

ATTEST:

_____

CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – List of properties and legal descriptions – all or a portion to be acquired
Exhibit B – Map

EXHIBIT A

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-22	All or a portion of Coconino County Assessor Parcel Number: 104-01-101	BNSF RAILWAY COMPANY

Legal Description:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COCONINO, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

A portion of Cottage Avenue, as abandoned by City of Flagstaff by Ordinance No. 1197, recorded in Docket 878, Page 657, records of Coconino County Arizona, which is bounded on the West by the Northerly prolongation of the West line of Block 30, BANNEN ADDITION, revised plat, office of the Coconino County Recorder; and bounded on the East by the Northerly prolongation of the West line of the Easement described in Docket 829, Page 896 through 905, records of Coconino County, Arizona.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-22 Cont.	All or a portion of Coconino County Assessor Parcel Number: 104-04-012A	BNSF RAILWAY COMPANY

Legal Description:

That portion of the BNSF Railway (formerly Atchison, Topeka and Santa Fe Railway) Station Grounds lying within the Northeast quarter of Section 22, Township 21 North, Range 7 East, Gila & Salt River Base and Meridian, Coconino County, Arizona, as depicted on Coconino County Assessor's Map Book 104, Map 4, Parcel 12A;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-012D;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-010;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-011C;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-011D;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-013A;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-013B;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-013C;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-014.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-22 Cont.	All or a portion of Coconino County Assessor Parcel Number: 104-04-010	BNSF RAILWAY COMPANY

Legal Description:

A portion of the Northwest quarter of Section 22, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, depicted as Assessors Parcel No: 104-04-010 and comprising a portion of the following described parcel as conveyed to the Atlantic & Pacific Railroad Company by deed recorded in Book 2 of Deeds, Page 279, records of Coconino County, Arizona:

Commencing at a point where the West line of said quarter Section intersects the South line of Cottage Avenue in Brannen Addition to said town of Flagstaff, as shown on a printed map made by Wayne H. Wilder, No. 606, running thence in an Easterly direction along the South line of said Cottage Avenue, until the same intersects the East line of said quarter section;

Thence North along the East line of said quarter section to the North line of said quarter section;

Thence West along the North line of said quarter section to the West line thereof;

Thence South along said West line to the Place of Beginning.

SAVING AND EXCEPTING Blocks numbered 32 and 33 in said Brannen Addition, also the Streets and Avenues adjacent and surrounding said Blocks

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-22 Cont.	All or a portion of Coconino County Assessor Parcel Number: 104-04-013B	BNSF RAILWAY COMPANY

Legal Description:

That portion of the BNSF Railway (formerly Atchison, Topeka and Santa Fe Railway) Station Grounds lying within the Northeast quarter of Section 22, Township 21 North, Range 7 East, Gila & Salt River Base and Meridian, Coconino County, Arizona, as depicted on Coconino County Assessor's Map Book 104, Map 4, Parcel 13B;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-012A;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-012D;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-010;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-011C;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-011D;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-013A;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-013C;

EXCEPT any portion depicted as Assessors Parcel No. 104-04-014.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-22 Cont.	All or a portion of Coconino County Assessor Parcel Number: 104-01-094	BNSF RAILWAY COMPANY

Legal Description:

A portion of the Northwest quarter of Section 22, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, depicted as Assessors Parcel No: 104-01-094 and comprising a portion of the following described parcel as conveyed to the Atlantic & Pacific Railroad Company by deed recorded in Book 2 of Deeds, Page 279, records of Coconino County, Arizona:

Commencing at a point where the West line of said quarter Section intersects the South line of Cottage Avenue in Brannen Addition to said town of Flagstaff, as shown on a printed map made by Wayne H. Wilder, No. 606, running thence in an Easterly direction along the South line of said Cottage Avenue, until the same intersects the East line of said quarter section;

Thence North along the East line of said quarter section to the North line of said quarter section;

Thence West along the North line of said quarter section to the West line thereof;

Thence South along said West line to the Place of Beginning.

SAVING AND EXCEPTING Blocks numbered 32 and 33 in said Brannen Addition, also the Streets and Avenues adjacent and surrounding said Blocks.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-22 Cont.	All or a portion of Coconino County Assessor Parcel Number: 104-01-096A	BNSF RAILWAY COMPANY

Legal Description:

That portion of the Northeast quarter of the Northwest quarter of Section 22, Township 21 North, Range 7 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona, depicted by Assessor's Parcel No: 104-01-096A also described as Railroad Parcel 701-6-19B-9 excepting therefrom that portion conveyed to the City of Flagstaff in Docket 1442, Page 754, and comprising a portion of the following described parcel as conveyed to the Atlantic & Pacific Railroad Company by Deed recorded in Book 2 of Deeds, Page 279, records of Coconino County, Arizona:

Commencing at a point where the West line of said quarter Section intersects the South line of Cottage Avenue in Brannen Addition to said town of Flagstaff, as shown on a printed map made by Wayne H. Wilder, No. 606, running thence in an Easterly direction along the South line of said Cottage Avenue, until the same intersects the East line of said quarter section;

Thence North along the East line of said quarter section to the North line of said quarter section;

Thence West along the North line of said quarter section to the West line thereof;

Thence South along said West line to the Place of Beginning.

SAVING AND EXCEPTING Blocks numbered 32 and 33 in said Brannen Addition, also the Streets and Avenues adjacent and surrounding said Blocks.

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FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-32	All or a portion of Coconino County Assessor Parcel Number: 104-19-117A	City of Flagstaff

Legal Description:

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-25	All or a portion of Coconino County Assessor Parcel Number: 104-01-013A	Dreams Really Do Come True

Legal Description:

THENCE North 00° 58’ 54” West, a distance of 1,472.40 feet to the Northwest corner of Lot 1 of said Block 18 of the BRANNEN ADDITION;

THENCE South 89° 01’ 39” West, a distance of 160.00 feet to the Northwest corner of Lot 12 of said Block 18, being a found ½ inch rebar;

THENCE South 00° 50’ 15” East along the Westerly boundary of said Lots 11 and 12 of Block 18, a distance of 70.00 feet to the TRUE POINT OF BEGINNING;

THENCE continuing South 00° 50’ 15” East along the Westerly boundary of said Lot 11, a distance of 30.01 feet to the Southwest corner of said Lot 11;

THENCE North 89° 01’ 39” East along the Southerly boundary of said Lot 11, a distance of 14.00 feet;

THENCE North 00° 50’ 15” West, a distance of 29.99 feet;

THENCE South 89° 07’ 42” West, a distance of 14.00 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land situated in the Northwest quarter of Section 22, Township 22 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, being a portion of the alley in Block 18, BRANNEN ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 1 of Maps, Page 12, records of Coconino County, Arizona, described as follows:

BEGINNING at the Northeast lot corner of Lot 12, Block 18 of said BRANNEN ADDITION, said point being on the South right-of-way line of Butler Avenue as created by instrument recorded in Docket 238, Page 634, records of Coconino County, Arizona;

THENCE North 89° 04’ 38” East, along said South right-of-way line, a distance of 20.00 feet, more or less, to a Northwest corner of that property described in instrument recorded in Docket 1213, Page 21, records of Coconino County, Arizona;

THENCE South 00° 23’ 17” East, along a Westerly boundary of said property described in Docket 1213, Page 21, a distance of 100.28 feet to the Southwest corner (erroneously described of record as the Northwest corner) of Lot 2, Block 18 of said BRANNEN ADDITION;

THENCE South 89° 20’ 19” West, a distance of 20.13 feet to the Southeast corner of Lot 11, Block 18 of said BRANNEN ADDITION;

THENCE North 00° 55’ 12” East, along the East lot lines of said Lots 11 and 12, a distance of 100.00 feet to the POINT OF BEGINNING;

EXCEPT the Northerly 12.5 feet thereof.

PARCEL NO. 1:

Lots 11 and 12, Block 18, BRANNEN ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 1 of Maps, Page 12, records of Coconino County, Arizona;

EXCEPT:

BEGINNING at the Northwest corner of said Lot 12;

THENCE North 89° 22' 25" East (C) along the Southerly right-of-way line of Butler Avenue, a distance of 140.00 feet (C) to the Northeast corner of said Lot 12 (basis of bearing is the centerline of the existing Butler Avenue right-of-way South 40° 45' 08" East between Agassiz Street and O'Leary Street as shown on the Clay Avenue-Butler Avenue Realignment Map of Dedication dated November 21, 1985, recorded in Case 4, Map 95, records of Coconino County, Arizona);

THENCE South 00° 39' 17" East (C) along the Easterly line of said Lot 12, a distance of 15.00 feet (C);

THENCE South 89° 22' 25" West (C) along a line parallel to the North line of Lot 12, a distance of 111.02 feet (C);

THENCE South 44° 23' 27" West (C), a distance of 21.22 feet (C);

THENCE South 00° 35' 32" East (C) along a line parallel to the East right-of-way line of Elden Street, a distance of 40.00 feet (C);

THENCE South 89° 22' 25" West (C), a distance of 14.00 feet (C) to a point on the Easterly right-of-way line of Elden Street, said point also being on the Westerly line of said Lot 11;

THENCE North 00° 35' 32" West (C) along said East right-of-way line of Elden Street, a distance of 70.00 feet (C) to the POINT OF BEGINNING;

AND EXCEPT:

A portion of Lot 11, Block 18, BRANNEN ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 1 of Maps, Page 12, records of Coconino County, Arizona, lying in the Northwest quarter of Section 22, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, more particularly described as follows:

COMMENCING for reference at the Northwest corner of said Section 22, being a USBLM brass cap, from whence the Southwest corner of said Section 22, being a 5/8 inch rebar in pavement bears South 00° 51' 03" East, 5,274.56 feet (measured) basis of bearings;

THENCE South 00° 30' 40" East, 2,650.42 feet to the West quarter corner of said Section 22, monumented by a 40-penny nail in concrete scribed "E1/4 XXI";

THENCE North 89° 18' 35" East along the East0West midsection line of said Section 22, a distance of 976.69 feet to a 5/8 inch rebar at the Southeast corner of Tract "X" of the Revised Plat of WASHINGTON ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 2 of Maps, Page 2, records of Coconino County, Arizona;

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-26	All or a portion of Coconino County Assessor Parcel Number: 104-19-118A	Alliance Bank

Legal Description:

Parcel No.1:
Lot 118, Aspen Place at the Sawmill, according to plat recorded in Instrument No. 3438431, and amended Plat recorded in Instrument No. 3583171, records of Coconino County, Arizona;

EXCEPT all oil, gas and other minerals, as granted in Deed recorded in Docket 164, Page 405, records of Coconino County, Arizona;

AND EXCEPT that portion of the Northwest Quarter of Section 22, Township 21 North, Range 7 East, Gila and Salt River Base and Meridian, Coconino County, Arizona:

That portion of Lot 118, Amended Final Subdivision Plat for Aspen Place at the Sawmill, Instrument 3583171, dated December 21, 2010, Coconino County Records, lying Northerly of the following described line:

COMMENCING at the Northernmost Northeast corner of said Lot 118, from whence the Southernmost Northeast corner of said Lot 118 lies South 46°27'22" East a distance of 35.17 feet along the Northeasterly line of said Lot 118, per said Instrument 3583171;

Thence along said Northeasterly line, and the Westerly Right of Way line of Windsor Lane, South 46°27'22" East a distance of 4.22 feet to a line parallel with and 3.00 feet Southerly of the Northerly line of said Lot 118, and the POINT OF BEGINNING of the line;

Thence leaving said Northeasterly line along said parallel line the following courses:
South 88°14'47" West a distance of 60.81 feet;
South 88°57'22" West a distance of 68.72 feet;
Thence leaving said parallel line, North 66°01'02" West a distance of 7.09 feet to said Northerly line, and the Terminus of the line.

Parcel No.2:
A non-exclusive easement for ingress and egress and parking, as created by Amended and Restated Access and Parking Easement Agreement recorded October 20, 2010 in Instrument No. 3577481, records of Coconino County, Arizona.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-27	All or a portion of Coconino County Assessor Parcel Number: 104-19-119	RPT Aspen Place

Legal Description:

PARCEL NO. 1:

Lots 119 and 121, ASPEN PLACE AT THE SAWMILL, as shown on the plat thereof, record in Instrument Number 3438431, and the amended final plat thereof, record in Instrument Number, 3583171, records of Coconino County, Arizona;

Except all oil, gas, and minerals as granted in Deed recorded in Docket 164, Page 405, records of Coconino County, Arizona.

PARCEL NO. 2:

A non-exclusive easement for ingress, egress and parking, as created by Amended and Restated Access and Parking Easement Agreement recorded in Instrument No. 3577481, and Amended in Instrument No. 3724734, records of Coconino County, Arizona.

PARCEL NO. 3:

A non-exclusive easement for ingress, egress and parking, as created by Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions recorded in Instrument No. 3676744, and Amended in Instrument No. 3686961, records of Coconino County, Arizona.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-28	All or a portion of Coconino County Assessor Parcel Number: 104-19-121	RPT Aspen Place

Legal Description:

PARCEL NO. 1:

Lots 119 and 121, ASPEN PLACE AT THE SAWMILL, as shown on the plat thereof, record in Instrument Number 3438431, and the amended final plat thereof, record in Instrument Number, 3583171, records of Coconino County, Arizona;

Except all oil, gas, and minerals as granted in Deed recorded in Docket 164, Page 405, records of Coconino County, Arizona.

PARCEL NO. 2:

A non-exclusive easement for ingress, egress and parking, as created by Amended and Restated Access and Parking Easement Agreement recorded in Instrument No. 3577481, and Amended in Instrument No. 3724734, records of Coconino County, Arizona.

PARCEL NO. 3:

A non-exclusive easement for ingress, egress and parking, as created by Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions recorded in Instrument No. 3676744, and Amended in Instrument No. 3686961, records of Coconino County, Arizona.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-30	All or a portion of Coconino County Assessor Parcel Number: 104-02-095A	Franklin Duplex LLC

Legal Description:

Lot 10, Block 15, Revised Plat of WASHINGTON ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 2 of Maps, Page 2, records of Coconino County, Arizona;

EXCEPTING THEREFROM that portion of said Lot 10, Block 15, Revised Plat of WASHINGTON ADDITION TO THE CITY OF FLAGSTAFF, more particularly described as follows:

COMMENCING for reference at the intersection of the centerline of Franklin Avenue and O'Leary Street;

THENCE North 89° 52' 49" East, along the centerline of Franklin Avenue, a distance of 184.58 feet (Basis of Bearing is per previous Survey recorded in Book 20 of Surveys, Page 58, records of Coconino County, Arizona);

THENCE North 00° 07' 11" West, a distance of 25.00 feet to the Southwest corner of said Lot 10;

THENCE North 00° 03' 58" East, along the West line of Lot 10, a distance of 47.75 feet to the TRUE POINT OF BEGINNING of this description;

THENCE continuing North 00° 03' 58" East, a distance of 2.00 feet to the Northwest corner of Lot 10, which is the Southwest corner of Lot 9;

THENCE North 89° 43' 39" East, along the line between Lots 9 and 10, a distance of 45.25 feet;

THENCE South 00° 20' 33" West, a distance of 1.32 feet;

THENCE North 88° 09' 21" West, a distance of 8.96 feet;

THENCE South 00° 00' 00" East, a distance of 1.05 feet;

THENCE South 89° 43' 39" West, a distance of 36.28 feet to the TRUE POINT OF BEGINNING.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-31	All or a portion of Coconino County Assessor Parcel Number: 104-02-065	Calvano Surviving Settlors Trust

Legal Description:

The Easterly 140 feet of Lots 1 and 2, Block B, of Revised Plat of WASHINGTON ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 2 of Maps, Page 2, records of Coconino County, Arizona;

EXCEPT the Westerly 70 feet thereof.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-29	All or a portion of Coconino County Assessor Parcel Number: 104-19-132	Campus Crest

Legal Description:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COCONINO, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

Tract A, ASPEN PLACT AT THE SAWMILL, as shown on the amended final plat thereof, recorded in Instrument No. 3583171, records of Coconino County Arizona;

EXCEPT all oil, gas and minerals as granted in Deed recorded in Docket 164, Page 405, records of Coconino County, Arizona.

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-33	All or a portion of Coconino County Assessor Parcel Number: 104-08-011A	City of Flagstaff

Legal Description:

FLAGSTAFF Parcel No.	Assessor's Parcel Number and Legal Description	Owner
LT-34	All or a portion of Coconino County Assessor Parcel Number: 104-01-074A	Ray Jackson, Bobbie Jackson, Emma Jackson, Henry Jackson

Legal Description:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COCONINO, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

PARCEL NO. 1:

The North 20 feet of Lot 5 and all of Lots 6 and 7, Block 30, BRANNEN ADDITION TO THE CITY OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 1 of Maps, Page 12, records of Coconino County, Arizona.

EXCEPT all oil, gas and other minerals, in, on or under or which may be produced from said land, as conveyed to Southwest Lumber Mills, Inc., an Arizona corporation, by Deed recorded December 5, 1960, in Docket 164, Page 405, records of Coconino County, Arizona.

PARCEL NO. 2:

A portion of Cottage Avenue, as abandoned by City of Flagstaff by Ordinance No. 1197, which is bounded on the West by the Northerly prolongation of the West line of the North-South alley abandoned by City of Flagstaff Resolution No. 1082 and bounded on the East by the Northerly prolongation of the West line of the Easement described in Docket 829, Page 896 through 899, records of Coconino County, Arizona.

EXHIBIT B – Maps of Impacted Parcels




LT34
Jackson
104-01-074A
LT25
Dreams Really Do
Come True
104-01-013A
LT26
Alliance Bank
104-01-118A
LT28
Aspen Place
104-19-119, 121
LT30
Franklin Duplex
104-02-095A
LT29
Campus Crest
104-19-132, 137
LT31
Calvano Trust
104-02-065
E BRANNEN AVE
E BUTLER AVE
E ASHURST AVE
E FRANKLIN AVE
E CHURCHILL DR
E KENSINGTON
E JACKSON DR
E SAWMILL RD
S O'LEARY ST
S ELDEN ST
S COLORADO ST
S GABEL ST
S REGENT ST
S WINDSOR LN
S LONE TREE RD
S FOUNTAINE ST
10401013A
10419118A
10419119
10419117A
10419121
10419163
10419164
10419165
10419166
10419001A
10419061A
10402095A
10402065

10. E.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Bryce Doty, Real Estate Manager
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Ordinance No. 2023-17: An ordinance of the City Council of the City of Flagstaff, abandoning approximately 5,140 square feet of public right-of-way connecting to the north side of West Route 66, providing for sale of such property, delegation of authority, recording, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-17 by title only for the final time
2) City Clerk reads Ordinance No. 2023-17 by title only (if approved above)
3) Adopt Ordinance No. 2023-17

Executive Summary:

Flagstaff Hotels, LLC owns three parcels, two of which (County Assessor parcel numbers: 112-04-009E and 112-04-002P) are bisected by a 20-foot Right-of-Way (ROW) dedicated to the public in the Amended Plat of Coconino West as recorded at case 2 map 68 of the records of the Coconino County Recorder, generally located at 1400 W. Route 66. The ROW is unimproved except for the placement of public utilities within the corridor. The property owner has submitted a Site Plan application to develop a hotel utilizing the parcels. As a condition of approval, the property owner is requesting the City of Flagstaff abandon the unimproved ROW insofar as it bisects the two parcels, approximately 5,140 square feet. If abandoned, per statutory procedures for abandonment, the City may convey for fair market value the abandoned ROW to Flagstaff Hotels, LLC while reserving a 26-foot wide public utility easement (PUE) for existing utility infrastructure and proposed water infrastructure required for the development.

On May 10, 2023, The Planning and Zoning Commission recommended abandonment based on the City Staff report findings that the abandonment is consistent with the General Plan, Zoning Code, any applicable Specific Plan, and all applicable Utilities and Public Works Division standards. City Staff prepared the attached report presented to the Planning and Zoning Commission in which it recommends abandonment of the ROW with the following condition:

1. A new PUE should be recorded concurrently with the abandonment of the ROW.

For Council consideration, Staff recommends selling the property to the adjacent owner, in the event it submits a minimum bid of $4.97/sqft, or a total minimum bid of $25,578.

City staff also considered whether the ROW should be retained for the Flagstaff Urban Trail System (FUTS). However, reserving the ROW for a trail use was not deemed necessary as bicyclists may travel along W. Kaibab Lane to S. Thompson Street or S. Woodlands Village Blvd. to access Route 66 at a

signalized crossing.

Financial Impact:

The City Charter requires property to be sold at public auction. State law provides that if the property is sold, the City is to receive “an amount …commensurate with the value of the abandoned roadway. “ City Council may consider “fragmentation and marketability and any other public benefit received” in return in determining the amount of consideration., per A.R.S. § 28-7208. Pursuant to A.R.S. § 28-7204 an abutting property owner’s timely offer shall be preferred over all other offers.

City staff has not obtained an appraisal of the property proposed for abandonment, but has prepared an estimate of value based on the following factors:

1. The 2018 sales price of the adjacent properties establishes a $19.14/SQFT price
2. A downward adjustment of 50% is made to account for the impact in value of the existing utility infrastructure
3. A downward adjustment of 30% is made to account for the fragmentation of the ROW. Its marketability is limited to assemblage purposes.
4. An upward adjustment of 30% is made to account for the increase in property values over the last five (5) years.

Based on these factors, Staff recommends selling the property, setting a minimum bid price of $4.97/SQFT for a total minimum bid price of $25,578 for the abandoned ROW.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Livable Community - Provide amenities and activities that support a healthy lifestyle.

Regional Plan

Goal T.1. Improve mobility and access throughout the region.
Goal T.2. Improve transportation safety and efficiency for all modes.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1. Approve abandonment, and minimum bid price of $3.82/SqFt (Recommended)
2. Approve abandonment, but with different minimum bid price or direct staff to obtain an appraisal
3. Remand back to Planning and Zoning Commission for further consideration
4. Do not approve abandonment

Attachments: Ord. 2023-17
Ordinance Exhibit A Legal Description
City Staff Report
Presentation

ORDINANCE NO. 2023-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF ABANDONING AN APPROXIMATELY 5,140 SQUARE FEET OF PUBLIC RIGHT-OF-WAY CONNECTING TO THE NORTH SIDE OF WEST ROUTE 66; PROVIDING FOR SALE OF SUCH PROPERTY, DELEGATION OF AUTHORITY, RECORDING, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City has authority to abandon public rights-of-way pursuant to A.R.S. § 28-7201 et seq, and pursuant to the City Code, Title 11, General Plans and Subdivisions, Division 11-20-160, Abandonment or Vacation of Public Right-of-Way; and has authority to dispose of real property pursuant to the Flagstaff City Charter, Article VIII, Section 10; and

WHEREAS, pursuant to A.R.S. § 28-7202 public right-of-way may be abandoned or vacated if it is no longer necessary for a public use; and

WHEREAS, all public utility companies, City divisions and agencies have had the opportunity to review a map of the public right-of-way proposed to be abandoned; and

WHEREAS, the City Engineer in consultation with the Water Services (formerly Utility) Director and Public Works Director, along with the Planning and Zoning Commission have determined that the proposed abandonment is consistent with the General Plan, Zoning Code, and any applicable Specific Plan, and all applicable Division standards, as referenced in the staff report included in the minutes of the May 10, 2023 Planning and Zoning Commission Meeting.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The City Council hereby finds that approximately 5,140 square feet of public right-of-way connecting to the north side of West Route 66, and legally described in Exhibit A attached hereto ("the Property") is no longer necessary for public use, and is hereby abandoned as public right-of-way.

The Property shall be noticed for sale and such notice of sale shall be published one time per week for three weeks prior to the opening of bids pursuant to Article 8, Section 10, of the Flagstaff City Charter.

Pursuant to A.R.S. § 28-7204 an abutting property owner's timely offer shall be preferred over all other offers.

The Property shall be offered for sale for a minimum bid of $25,578.00, and if an abutting property owner submits a responsible and responsive bid for that amount, the Property may be sold by Quit Claim Deed to said bidder, subject to all easements of record and reserving or dedicating a public utility easement within the Property limits.

If no bids are received, then for a two-year period the City Manager may, subject to Council approval, enter into an agreement to sell the Property for an amount reasonably consistent with an appraisal without further notice and bid process.

The City Council shall have the right to reject any and all bids received for the Property.

SECTION 2. Delegation of Authority

The Mayor, City Manager, City Attorney, City Clerk, Procurement Director, Community Development Director, Real Estate Manager, or their delegates or agents, are hereby authorized and directed to take all steps and execute all documents necessary to acquire the Property Interests and to carry out the purpose and intent of this ordinance.

The Community Development Director is authorized to execute a Purchase and Sale Agreement in an amount less than $50,000.00, in a form approved by the City Attorney.

SECTION 3. Recording.

The City Clerk is directed to record a copy of this ordinance.

SECTION 4. Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 7. Effective Date.

Pursuant to A.R.S. § 28-7213 this ordinance shall become effective when recorded in the office of the Coconino County Recorder, which shall be at least thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff, this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Attachment: Exhibit A Legal description and map

Description of Proposed Abandonment

RCC – Records of Coconino County,
IN = Instrument Number
###/### = Reference Deed

(r1): Amended Plat of Coconino West as recorded at Case 2 Map 68, RCC
(r2): Plat recorded at Book 10 Page 69, RCC
(r3): Plat recorded at IN3494771, RCC
(r4): Deed recorded at IN3821571, RCC, all made a part hereof by this reference.

A parcel of land, being situate in Section 20, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona and being more particularly described as follows:

BEGINNING at northwest corner of Parcel No. 2, (r4), also being the northwest corner of "Parcel C" per (r2) and (r3);

thence S 41°30'05" W, along the west line of Parcel No. 2 (r4), a distance of 156.44';

thence S 02°20'48" E, along the west line of Parcel No. 2 (r4), a distance of 97.46', to the north line of State Route 66;

thence S 88°19'19" W, along said north line, a distance of 20.00';

thence N 02°20'48" W, along the east line of Parcel No. 1 (r4), a distance of 105.27';

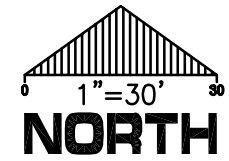
thence N 41°30'05" E, along the east line of Parcel No. 1 (r4), a distance of 154.25';

thence S 75°37'12" E, a distance of 22.47', back to the POINT OF BEGINNING.

Said parcel contains 0.118 acres, more or less and subject to existing easements and encumbrances.



Martin H. Martin, LS
1612 N. Transwestern Pump Rd., Bellemont, AZ 86015
928-853-2298 Cell martinlandsurveys@gmail.com



APN 112-04-002M
Thompson
IN 3304783

S76°23'18"E
21.90'

APN 112-04-009H
Flagstaff Mission
Tabernacle
IN 3304783

POINT OF BEGINNING
FOR DESCRIPTION.

PROPOSED
ABANDONMENT AREA

N41°44'26"E 154.25'

S41°30'05"W 156.44'

APN 112-04-002P
Flagstaff Hotels, LLC
IN 3821571

APN 112-04-009E
Flagstaff Hotels, LLC
IN 3821571

N02°20'48"W 105.27'

S02°20'48"E 97.46'

S88°19'19"W
20.00'

Highway 66

NOTES:

RCC = RECORDS OF
COCONINO COUNTY

IN = INSTRUMENT NUMBER

THIS EXHIBIT BASED ON PLAT
RECORDED AT INSTRUMENT
NUMBER 3494771, RCC,
MADE A PART HEREOF BY
THIS REFERENCE.

AREA OF ABANDONMENT IS
0.118 ACRES.



Sketch of Proposed
Abandonment Area
being a portion of Section 20
T21N R7E G&SRM
Coconino County – AZ

Exhibit "B"
C.O.F. File Number PZ21-00139

DWG: 22077_Abandon_01.dwg

MARTIN LAND SURVEYS
1612 N. TW Pump Rd. Bellemont, Az 86015 (928)853-2298
Date: Oct. 13, 2022 Job No. 22077

CITY ENGINEER AND REAL ESTATE REPORT
RIGHT-OF-WAY ABANDONMENT

DATE: **May 4, 2023**
MEETING DATE: **May 10, 2023**
REPORT BY: **Bryce Doty**

REQUEST:

Flagstaff Hotels, LLC owns three parcels, two of which (county assessor parcel numbers: 112-04-009E and 112-04-002P) are bisected by a 20-foot Right-of-Way (ROW) dedicated to the public in the Amended Plat of Coconino West as recorded at case 2 map 68 of Coconino County Recorders, generally located at 1400 W. Route 66. The ROW is unimproved except for the placement of public utilities within the corridor. The property owner has submitted a Site Plan application to develop a hotel utilizing the parcels. As a condition of approval, the property owner is requesting the City of Flagstaff abandon the unimproved ROW insofar as it bisects the two parcels, approximately 5,140 square feet. If abandoned, per statutory procedures for abandonment, the City may convey the abandoned ROW to Flagstaff Hotels, LLC while reserving a 26-foot wide public utility easement (PUE) for existing utility infrastructure and proposed water infrastructure required for the development. **Prior to taking any abandonment requests to City Council, the Planning Commission must make a recommendation pursuant to City Code Title 11-20.160.020.D.**

STAFF RECOMMENDATION:

City Staff recommends that the commission, in accordance with the findings, forward the request to abandon approximately 5,140 square feet of ROW between county assessor parcel numbers 112-04-009E and 112-04-002P, while reserving a public utility easement for existing and future utilities, to the City Council with a recommendation of approval with the following condition:

1. The PUE should be recorded concurrently with the abandonment of the ROW.

PRESENT LAND USE:

Existing sewer, electric, and natural gas utilities

PROPOSED LAND USE:

If the public right of way is abandoned, and the adjacent property owner acquires it, then the abandoned public right of way will be incorporated in the hotel development. the development.

NEIGHBORHOOD DEVELOPMENT:

North: Existing Place of Worship, Highway Commercial (HC) zone; Vacant parcel, HC zone
East: Existing Off-street Parking Lot, HC zone
South: W Route 66
West: Vacant parcel, HC zone

FINDINGS

Evaluation Criteria	Response	Impact if ROW is abandoned
Existing Public Use	Existing sewer infrastructure; it does not provide access to any parcels.	Condition of abandonment and Site Plan will require property owner to provide easements for existing uses.
Future Public Use	No plans identified to utilize as ROW. The future development will utilize the area for new water infrastructure.	Condition of abandonment and Site Plan will require property owner to provide easements for existing uses.

Utility Impacts	Existing Unisource and APS infrastructure.	Condition of abandonment and Site Plan will require property owner to provide easements for existing uses.
Restrictions on Abandonment	None identified	None

PROJECT INTRODUCTION/BACKGROUND:

An ALTA title survey indicates that in 1965 the Amended Plat of Coconino West Subdivision dedicated an approximately 20=foot ROW within Tract "A". Tract "A" was subsequently divided into several other parcels. Flagstaff Hotels, LLC approached the City to develop the parcels bisected by the ROW. The approved concept plan utilizes the ROW for private purposes to provide a drive lane and parking for the hotel development.

City Code states: *13-09-001-0008 G. Public utility easements shall be free of all obstructions and shall at all times be accessible to City service vehicles and equipment. No buildings, sport courts, fences, shade structures, or permanent structures of any kind shall be constructed upon, over, or under a water, sewer, or drainage easement. No landscaping shall be placed within an easement which would render the easement inaccessible by equipment. The City of Flagstaff Utilities Division has the right to cause any obstruction to be removed without notice to the property owner and all related costs shall be the property owner's responsibility*.

UTILITY CLEARANCES

APS has existing overhead line infrastructure on the parcel. On October 11, 2022, APS responded with existing utility infrastructure adjacent or within the ROW. Easement needs will be provided to APS by the property owner following abandonment.

On November 2, 2022, Unisource consented to the abandonment provided that the property owner grant an easement following abandonment.

The proposed public utility easement as identified on the site plan will provide the easement needs for the existing and future infrastructure.

FLAGSTAFF REGIONAL PLAN

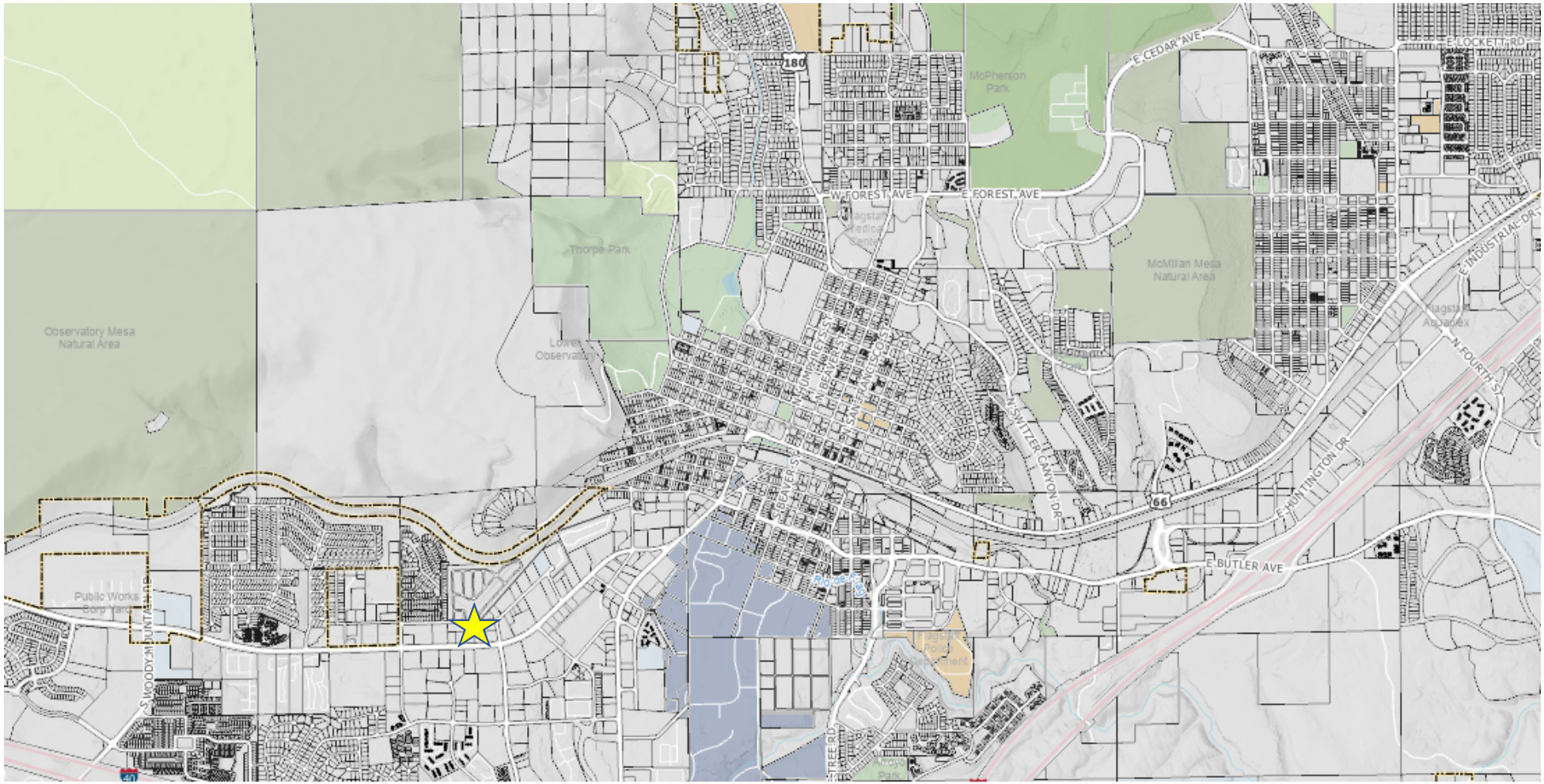
Regional plan does not identify any surface needs for the ROW.

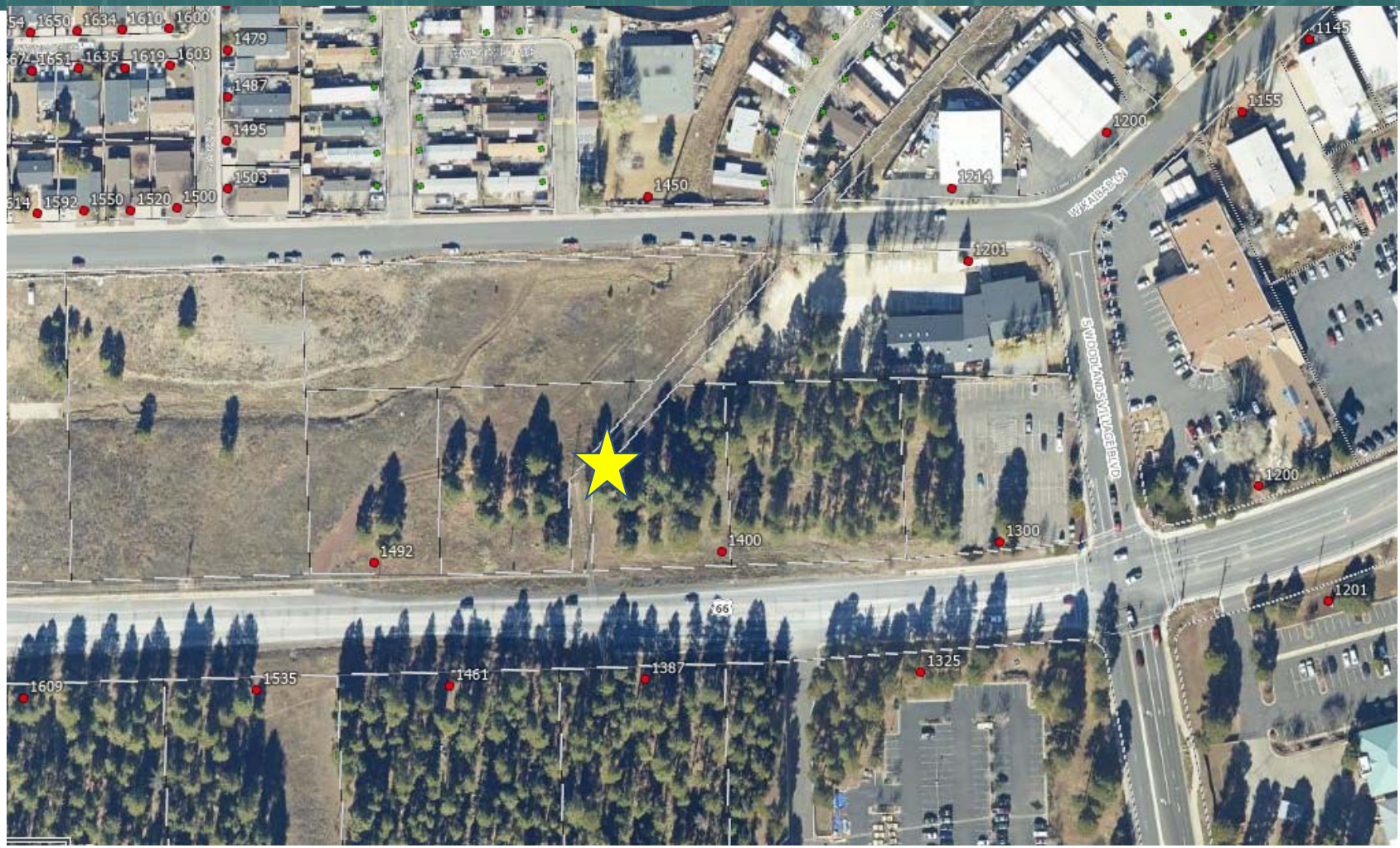
RECOMMENDATION

City Staff recommends abandoning approximately 5,140 square feet of public ROW while reserving a PUE.


Abandonment
Request 1400
Rt. 66
CITY OF FLAGSTAFF
ARIZONA
ESTABLISHED 1882
TEAM FLAGSTAFF
WE MAKE THE
CITY BETTER

Vicinity Map

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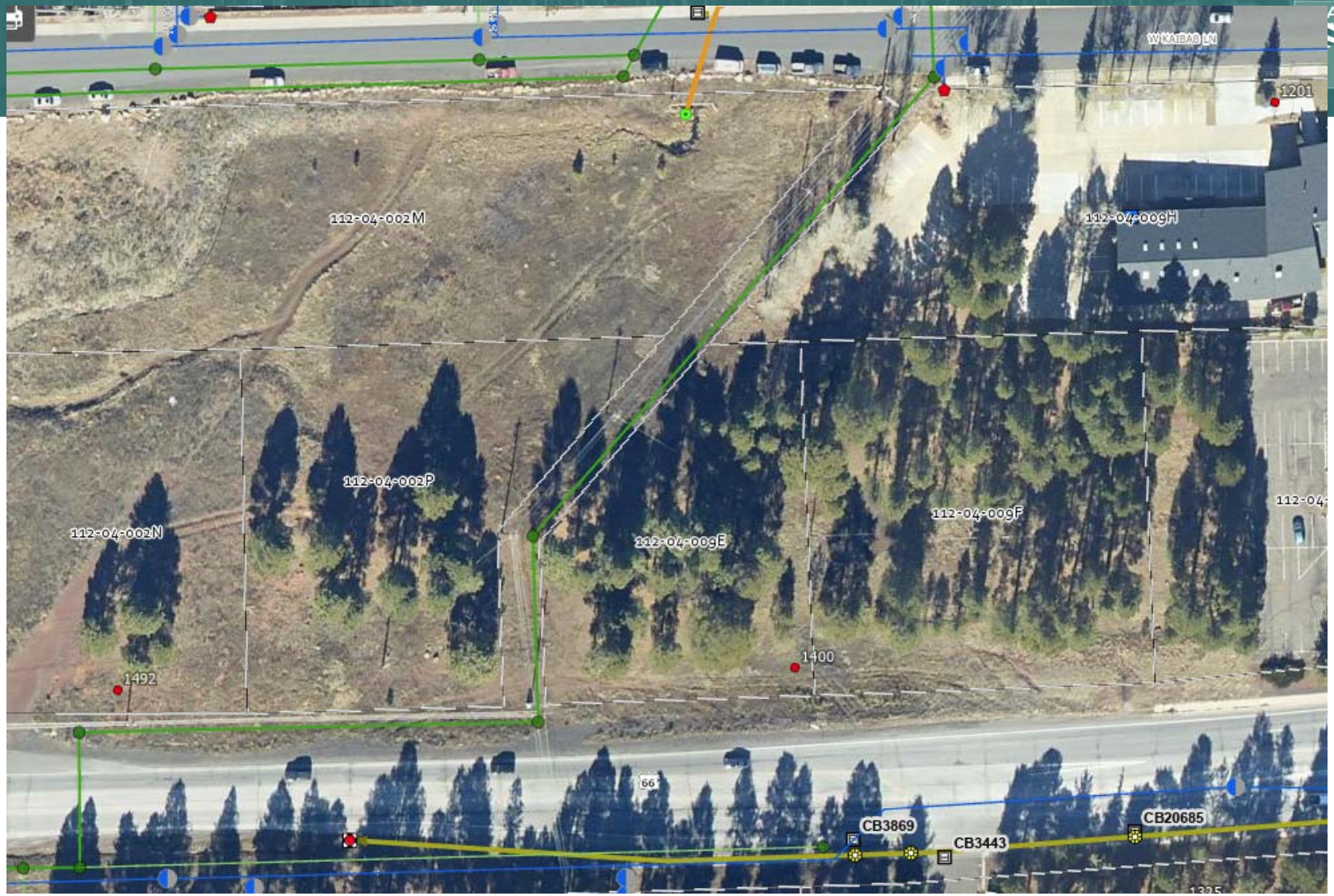
W KIELSON
S WOODLANDS VILLAGE BLVD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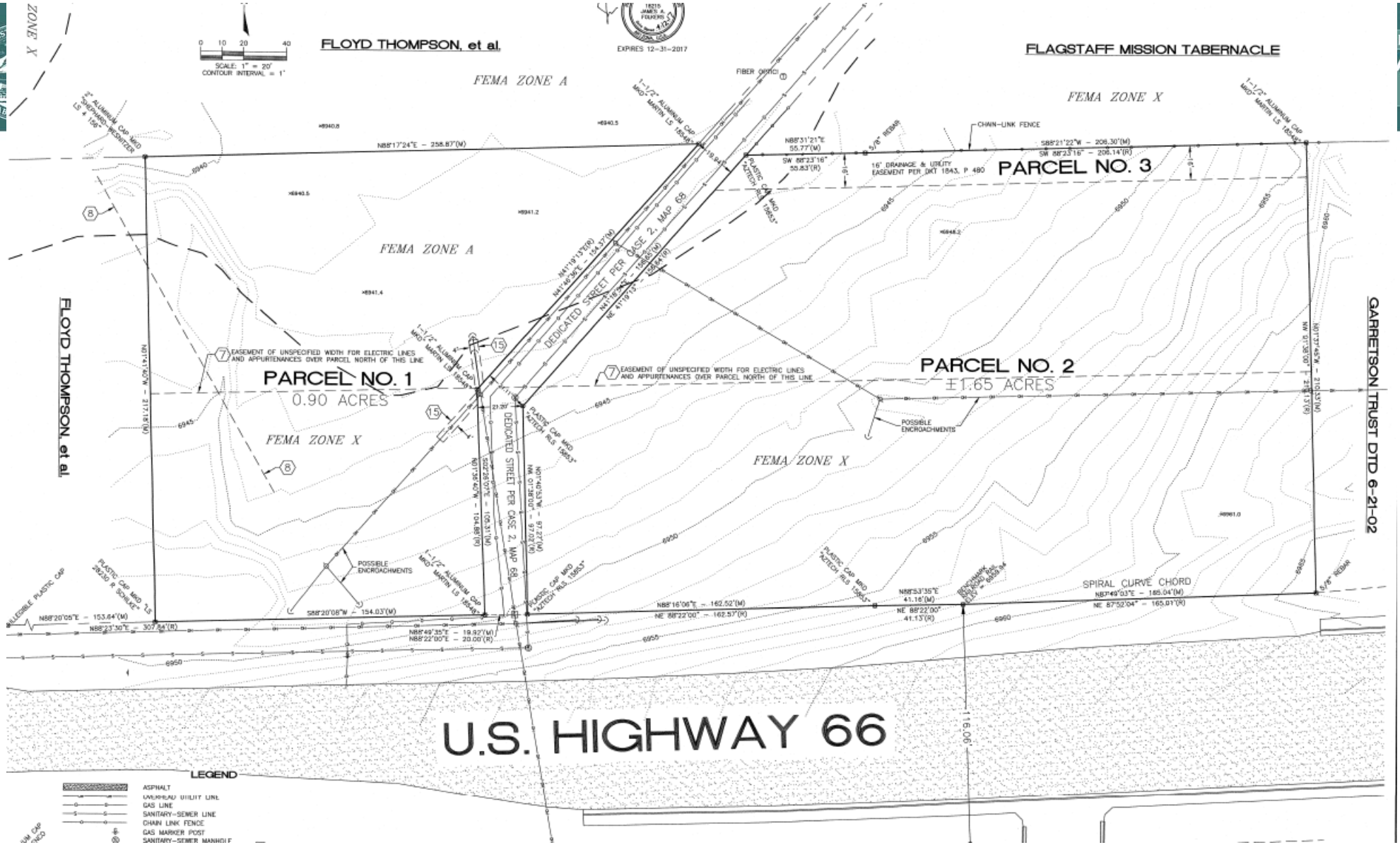
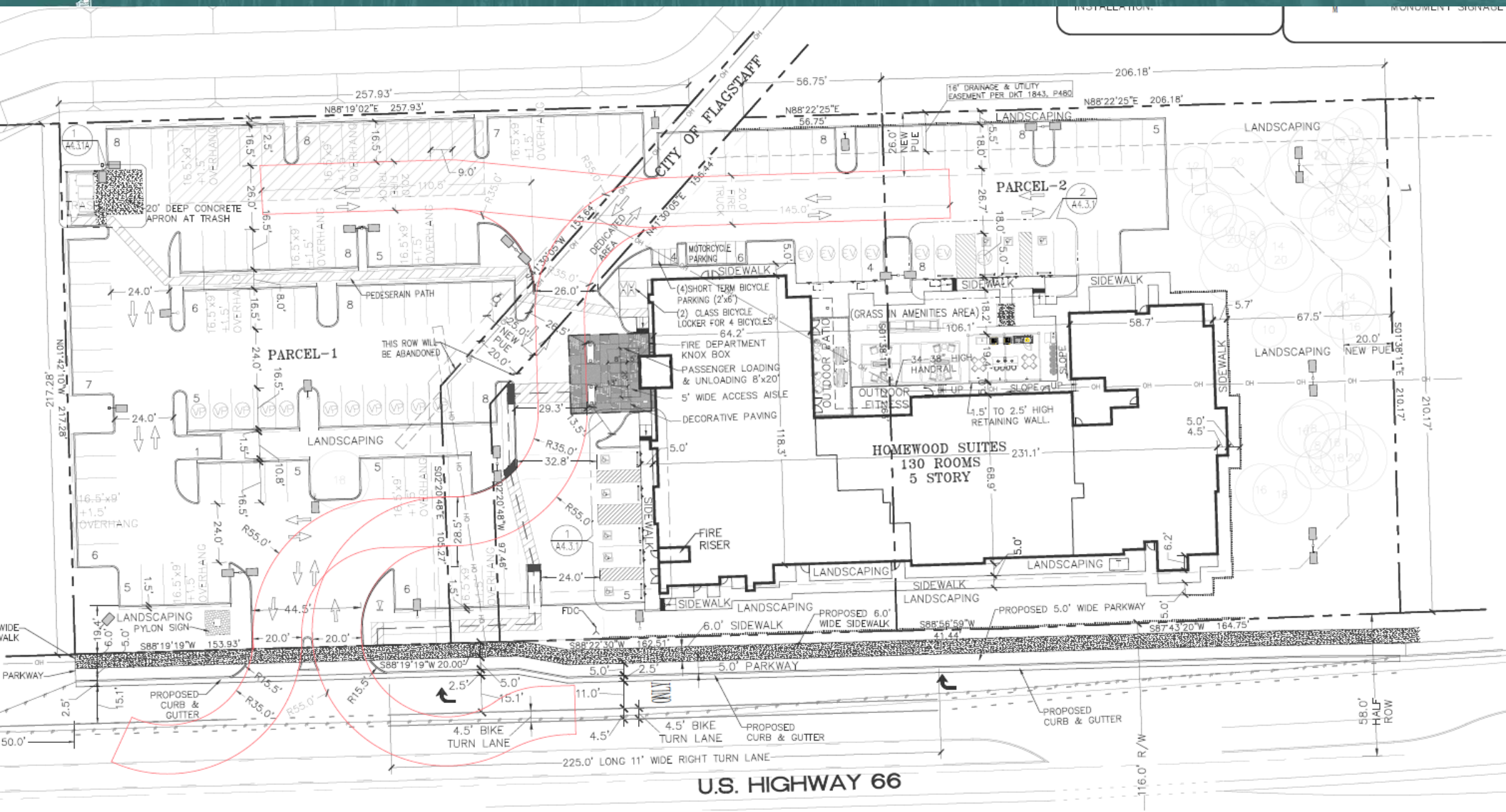
112-04-009H
1201
112-04-002P
112-04-002N
112-04-009F
112-04-009E
1400
1492
66
CB3869
CB3443
CB20685


W Kaibab Ln
W Kaibab Ln
W Kaibab Ln
W Kaibab Ln
40

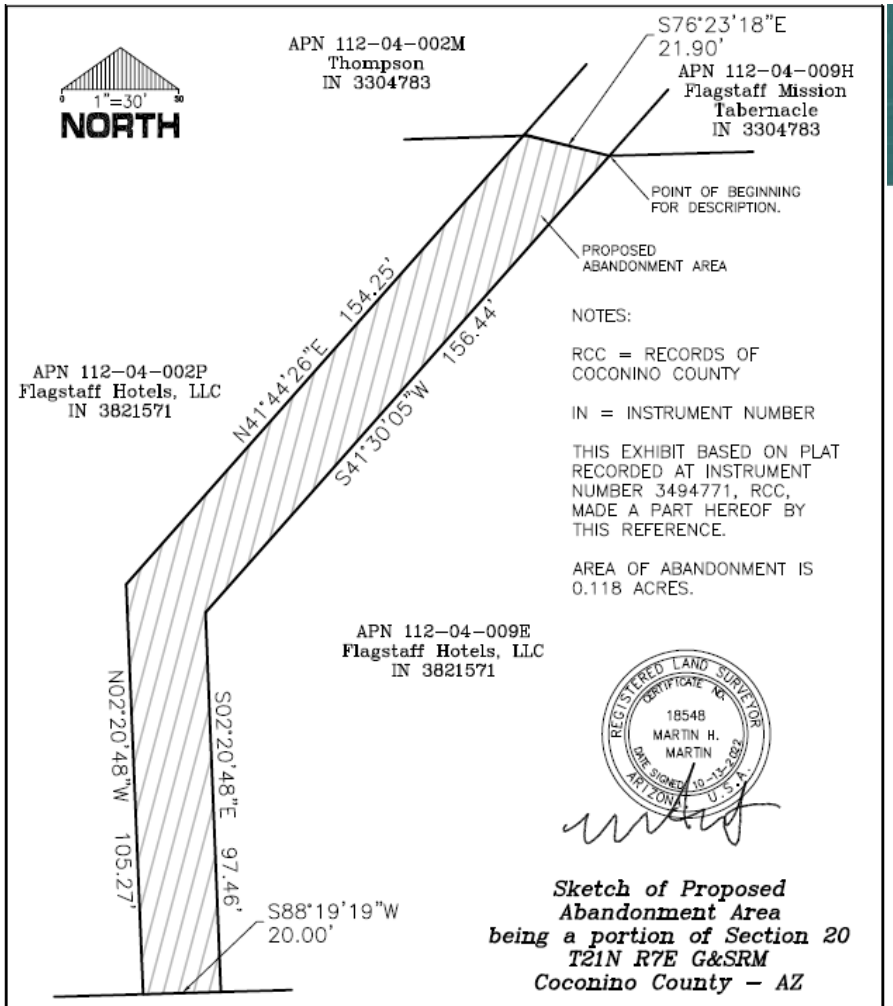

Flagstaff, Arizona
Google Street View
Apr 2023
See more dates
W Kaibab Ln
AZ
Google




FLOYD THOMPSON, et al.
FLAGSTAFF MISSION TABERNACLE
SCALE: 1" = 20'
CONTOUR INTERVAL = 1'
EXPIRES 12-31-2017
FEMA ZONE A
FEMA ZONE X
PARCEL NO. 1
0.90 ACRES
PARCEL NO. 2
±1.65 ACRES
PARCEL NO. 3
DEDICATED STREET PER CASE 2, MAP 68
16' DRAINAGE & UTILITY EASEMENT PER DKT 1843, P 480
EASEMENT OF UNSPECIFIED WIDTH FOR ELECTRIC LINES AND APPURTENANCES OVER PARCEL NORTH OF THIS LINE
POSSIBLE ENCROACHMENTS
CHAIN-LINK FENCE
FIBER OPTIC
FLOYD THOMPSON, et al.
GARRETSON TRUST DTD 6-21-02
U.S. HIGHWAY 66
SPIRAL CURVE CHORD
LEGEND
ASPHALT
OVERHEAD UTILITY LINE
GAS LINE
SANITARY-SEWER LINE
CHAIN LINK FENCE
GAS MARKER POST
SANITARY-SEWER MANHOLE



CITY OF FLAGSTAFF
PARCEL-1
PARCEL-2
HOMEWOOD SUITES
130 ROOMS
5 STORY
20' DEEP CONCRETE APRON AT TRASH
PEDESERAIN PATH
THIS ROW WILL BE ABANDONED
DEDICATED AREA
MOTORCYCLE PARKING
(4)SHORT TERM BICYCLE PARKING (2'x6')
(2) CLASS BICYCLE LOCKER FOR 4 BICYCLES
FIRE DEPARTMENT KNOX BOX
PASSENGER LOADING & UNLOADING 8'x20'
5' WIDE ACCESS AISLE
DECORATIVE PAVING
FIRE RISER
OUTDOOR PATIO
OUTDOOR FITNESS
(GRASS IN AMENITIES AREA)
34-38" HIGH HANDRAIL
1.5' TO 2.5' HIGH RETAINING WALL.
16' DRAINAGE & UTILITY EASEMENT PER DKT 1843, P480
LANDSCAPING
SIDEWALK
LANDSCAPING PYLON SIGN
PROPOSED 6.0' WIDE SIDEWALK
PROPOSED 5.0' WIDE PARKWAY
6.0' SIDEWALK
5.0' PARKWAY
PROPOSED CURB & GUTTER
4.5' BIKE TURN LANE
225.0' LONG 11' WIDE RIGHT TURN LANE
U.S. HIGHWAY 66
116.0' R/W
58.0' HALF ROW


1"=30'
NORTH
APN 112-04-002M
Thompson
IN 3304783
S76°23'18"E
21.90'
APN 112-04-009H
Flagstaff Mission
Tabernacle
IN 3304783
POINT OF BEGINNING
FOR DESCRIPTION.
PROPOSED
ABANDONMENT AREA
APN 112-04-002P
Flagstaff Hotels, LLC
IN 3821571
N41°44'26"E 154.25'
S41°30'05"W 156.44'
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Flagstaff Hotels, LLC
IN 3821571
N02°20'48"W 105.27'
S02°20'48"E 97.46'
S88°19'19"W
20.00'
Highway 66
NOTES:
RCC = RECORDS OF
COCONINO COUNTY
IN = INSTRUMENT NUMBER
THIS EXHIBIT BASED ON PLAT
RECORDED AT INSTRUMENT
NUMBER 3494771, RCC,
MADE A PART HEREOF BY
THIS REFERENCE.
AREA OF ABANDONMENT IS
0.118 ACRES.
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
18548
MARTIN H.
MARTIN
DATE SIGNED 10-13-2022
ARIZONA U.S.A.
Sketch of Proposed
Abandonment Area
being a portion of Section 20
T21N R7E G&SRM
Coconino County – AZ
Exhibit "B"
C.O.F. File Number PZ21-00139
DWG: 22077_Abandon_01.dwg
MARTIN LAND SURVEYS
1612 N. TW Pump Rd. Bellemont, Az 86015 (928)853-2298
Date: Oct. 13, 2022
Job No. 22077

10. F.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Ordinance No. 2023-19: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Chapter 1-18, Administrative Departments, to rename the City Clerk Division to the Communication and Civic Engagement Division

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-19 by title only for the final time
2) City Clerk reads Ordinance No. 2023-19 by title only (if approved above)
3) Adopt Ordinance No. 2023-19

Executive Summary:

In accordance with City Charter Article IV, Section 1(a), the Council, by ordinance not inconsistent with the City Charter, shall provide for the organization, conduct, and operation of the several offices and departments of the City as established by the Charter, for the creation of additional departments, divisions, offices, and agencies, and for their consolidation, alteration, or abolition.

Last year, the City Manager combined the Public Affairs Section and the City Clerk Section to create the City Clerk Division. There is a desire to rename the Division to a name that encompasses the entirety of operations and functions within the Division. The core purpose of the Division is engagement with the community. We communicate heavily through all forms of media and facilitate citizen communication with their elected officials. We build relationships with our indigenous neighbors and students, conduct elections, preserve the City's history, ensure transparency in government operations, and ensure compliance with the community's desired labor standards. In its entirety, we provide communication to the community and encourage citizens to engage and participate with their government. We feel that the name Communication and Civic Engagement is a good representation of our function as a Division.

Financial Impact:

None

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance
Inclusive and Engaged Community

Has There Been Previous Council Decision on This:

None

Attachments: Ord. 2023-19

ORDINANCE NO. 2023-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, CHAPTER 1-18, ADMINISTRATIVE DEPARTMENTS, TO RENAME THE CITY CLERK DIVISION TO THE COMMUNICATION AND CIVIC ENGAGEMENT DIVISION; PROVIDING REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council has authority to approve alterations of City Divisions pursuant to the Flagstaff City Charter, Article IV, Section 1(a); and

WHEREAS, on June 21, 2022 City Council approved the combining of the Public Affairs Section and the City Clerk Section to create the City Clerk Division; and

WHEREAS, the City Clerk Division desires to rename the Division as the Communication and Civic Engagement Division.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Amend City Code 1-18-001-0001

Flagstaff City Code Section 1-18-001-0001, Departments and Divisions Organized, is hereby amended as follows:

1-18-001-0001 DEPARTMENTS AND DIVISIONS ORGANIZED

DEPARTMENT HEADS: There will be two (2) departments and thirteen (13) divisions in the City government and the respective department heads shall be deputy city managers who report directly to the City Manager.

The thirteen (13) divisions shall be:

A. FIRE, headed by the Fire Chief.

B. POLICE, headed by the Police Chief.

C. PUBLIC WORKS, headed by the Public Works Director.

D. MANAGEMENT SERVICES, headed by the Management Services Director.

E. WATER SERVICES, headed by the Water Services Director.

F. COMMUNITY DEVELOPMENT, headed by the Community Development Director.

G. ECONOMIC VITALITY, headed by the Economic Vitality Director.

H. INFORMATION TECHNOLOGY, headed by the Information Technology Director.

I. HUMAN RESOURCES/RISK MANAGEMENT, headed by the Human Resources/Risk Management Director.

J. CITY ENGINEERING, headed by the City Engineer.

K. PARKS, RECREATION, OPEN SPACE, AND EVENTS, headed by the Parks, Recreation, Open Space, and Events Director.

L. ~~CITY CLERK~~ COMMUNICATION AND CIVIC ENGAGEMENT, headed by the City Clerk.

M. SUSTAINABILITY, headed by the Sustainability Director.

SECTION 2. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July 2023.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Ordinance No. 2023-18: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 1 Administrative, Chapter 1-16, City Elections, to provide for the manner of conducting elections for initiative and referendum measures, providing for severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

1) Read Ordinance No. 2023-18 by title only for the final time
2) City Clerk reads Ordinance No. 2023-18 by title only (if approved above)
3) Adopt Ordinance No. 2023-18

Executive Summary:

Article IV, Part 1, Section 1 (8) of the Arizona Constitution makes the initiative and referendum process applicable to all incorporated municipalities. An initiative is the process used by voters to propose a new law or amend an existing law and place the issue on the ballot for a public vote. A referendum is the process used by voters to refer to the ballot for a public vote a measure, ordinance, resolution, item, or any part of any measure, ordinance, resolution, or item enacted by the Council.

Initiative and referendum measures can be held at special elections so long as the City Council adopts an ordinance granting that authority. Due to the infrequent nature of initiatives and referendums, a special election has not been needed outside of the regular election schedule. Staff would like to update the City Code to provide Council the ability to call a special election for the purpose of an initiative or referendum.

This ordinance does not obligate the City to hold all initiatives and referendums at special elections, it only provides the ability to do so if desired by Council.

Financial Impact:

None

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance
Inclusive & Engaged Community

Has There Been Previous Council Decision on This:

None

Attachments: Ord. 2023-18

ORDINANCE NO. 2023-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 1 ADMINISTRATIVE, CHAPTER 1-16 CITY ELECTIONS, TO PROVIDE FOR THE MANNER OF CONDUCTING ELECTIONS FOR INITIATIVE AND REFERENDUM MEASURES; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Article IV, Part 1, Section 1 (8) of the Arizona Constitution makes the initiative and referendum process applicable to all incorporated municipalities; and

WHEREAS, an initiative is the process used by voters to propose a new law or amend an existing law and place the issue on the ballot for a public vote; and

WHEREAS, a referendum is the process used by voters to refer to the ballot for a public vote a measure, ordinance, resolution, item, or any part of any measure, ordinance, resolution, or item enacted by the Council; and

WHEREAS, the City desires to have the ability to conduct special elections for the purpose of initiatives or referendums.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The Flagstaff City Code Title 1, Administrative, Section 1-16 City Elections, is hereby amended as follows:

1-16-001-0005 INITIATIVE AND REFERENDUM:

THERE IS RESERVED TO THE QUALIFIED ELECTORS OF THE CITY/TOWN THE POWER OF THE INITIATIVE AND THE REFERENDUM AS PRESCRIBED BY ARTICLE IV, PART 1, SECTION 1 OF THE ARIZONA CONSTITUTION. ANY INITIATIVE OR REFERENDUM MATTER MAY BE VOTED ON AT THE NEXT ENSUING PRIMARY OR GENERAL ELECTION, OR AT A SPECIAL ELECTION CALLED BY THE COUNCIL FOR SUCH PURPOSE.

SECTION 2. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

10. H.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	David Pedersen, Capital Improvements Project Manager
Co-Submitter:	Stacey Brechler-Knaggs
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: Professional Services Contract with Shephard Wesnitzer, Inc, an Ardurra Company, in the amount of $499,520.00 for inspection services of the Inner Basin Waterline Restoration Project.

STAFF RECOMMENDED ACTION:

1. Approve the Professional Services Contract for inspection services with Shephard Wesnitzer Inc., (SWI) an Ardurra Company, in the amount of $499,520.00 and a contract duration of 516 calendar days;
2. Approve Change Order Authority to the City Manager in the amount of $49,952.00 which is 10% of the contract amount; and
3. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Pipeline Fire (June 2022) burned 26,532 acres, including portions of the Schultz Creek and Chimney watersheds. The post-fire flooding impacted the City of Flagstaff during the 2022 monsoon season, and caused catastrophic damage, including damage to the city's Inner Basin pipeline and Waterline Road. The city needs to repair the waterline and corresponding roadway to have it operational by the fall of 2023. This inspection services contract will allow the Project to move forward with construction to mitigate the immediate threat to the health of citizens resulting from the instability of water supply spring water from the Inner Basin. Overall, Inner Basin water can account for 20% of Flagstaff's daily potable water demand during peak consumption weeks of summer. This critical water supply also provides water for fire-fighting operations. Repair and reinforcement of the Inner Basin pipeline, along with repair of both Waterline and Schultz Pass roads, are urgently needed to ensure the health and safety of the community.

This contract will provide an engineering inspector to be on-site to provide daily inspections and certify the work is being completed in accordance with applicable standards and specifications. The inspector will also be responsible for the approval of the construction materials being utilized and installed during construction.

Financial Impact:

The Budget for the Inner Basin Waterline Restoration Project is in Water Service Fund in account 202-08-370-3519-0-4421 for $16,357,576 over the next two years. This project is funded with up to $16.1M by a reimbursement from Arizona Department of Forestry and Fire Management (DFFM).

Policy Impact:

No Impact

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Carbon Neutrality Strategies

Water Security (WS-1) – Improve water infrastructure and expand water reuse.
Water Security (WS-2) – Improve ecosystem management for protection of water resources.
Healthy Forests and Open Spaces (HF-2) – Restore and maintain the natural fire-adapted structure and pattern of the forests of the greater Flagstaff region through collaboration with partners.
Health and Safety (HS-4) – Improve the resilience of public infrastructure and City facilities.

Priority-Based Budgeting Priorities and Objectives

Safe and Healthy Community – Ensure the built environment is safe through the use of consistent standards, rules and regulations, and land use practices
Sustainable, Innovative Infrastructure – Deliver outstanding services to residents through a healthy, well-maintained infrastructure system

Regional Plan – Goal E&C.7 – Environmentally Sensitive Lands Goals and Policies

Give special consideration to environmentally sensitive lands in the development design and review process

Regional Plan – Goal WR.5 – Stormwater and Watershed Management Goals and Policies

Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.

Regional Plan – Goal WR.3 – Water Demand Goals and Policies

Satisfy current and future human water demands and the needs of the natural environment through sustainable and renewable water resources and strategic conservation measures.

Team Flagstaff Strategic Plan – Priority 3

Deliver outstanding services through a healthy environment, resources, and infrastructure.

Has There Been Previous Council Decision on This:

This is the fifth time this item has been discussed before City Council.

- **January 10, 2023** - Presentation with Project details was presented by City Staff and USFS personnel
- **January 17, 2023** - Contract and GMP 1 approved by City Council *(30% design work)*
- **April 7, 2023** - A portion of the presentation at Capital Improvements Plan Budget Retreat
- **May 2, 2023** - GMP 2 approved by City Council *(90% design work and maintenance repair construction)*

Options and Alternatives:

1. Approve the Professional Services Contract as recommended. Approval will allow inspection services to begin for this emergency Project; or,
2. Reject approval of the Professional Services Contract as recommended. This action would delay or cancel the emergency Project.

Background/History:

The Pipeline Fire was reported on 12 June 2022, approximately 6 miles north of Flagstaff within the Coconino National Forest. The fire burned 26,532 acres, including portions of the Schultz Creek and Chimney watersheds. A burn scar assessment and flood modeling subsequently showed potential post-wildfire flood risk to neighborhoods on the west side of Flagstaff. Both the City of Flagstaff and the Coconino County Flood Control District are collaborating with public and private partners and taking extensive measures and precautions to mitigate damage from future potential flood events.

The post-fire flooding impacted the City of Flagstaff during the 2022 monsoon season, and caused catastrophic damage, including damage to the city's Inner Basin pipeline and Waterline Road. The city needs to repair the waterline and corresponding roadway to have it ready for use by the fall of 2023. City Staff and partnering stakeholders feel there is an immediate threat to the health of citizens resulting from the instability of water supply. Spring water from the Inner Basin can peak as high as 2 million gallons per day (MGD) in summer months. Well water from the three wells (IB9, IB11 & IB14) in the Inner Basin has a similar peak capacity of about 2MGD. The design capacity of the North Reservoir Filtration Plant (NRFP), where Inner Basin water is treated, is 4MGD. Overall, Inner Basin water can account for at least 20% of Flagstaff's daily potable water demand during peak consumption weeks of summer. In summary, spring and well water from the Inner Basin, flowing through the Inner Basin waterline and within both the Waterline and Schultz Pass roads is a significant supply of both potable water to the residents in and around Flagstaff, as well as fire-fighting purposes. Repair and reinforcement of the Inner Basin pipeline, along with repair of both Waterline and Schultz Pass roads, are urgently needed to ensure the health and safety of the community.

The city estimates, based on experience, that awarding a contract using a sealed bidding process would require at least 90+ days, and the city's engineering division estimates the repair work would last another 60+ days. This would likely extend the Project beyond fall of 2023, further delaying access to this critical water supply. Rather than conducting a sealed bidding process and due to the exigent situation, the City – in compliance with State and local law – sole sourced the Design-Build Team that we previously contracted with, through a competitive public procurement process, for repair of the Inner Basin pipeline that resulted from the 2010 Schultz Fire.

The City of Flagstaff has a contract with the Design-Build team of Hunter Contracting and Jacobs Engineering to design and repair the Inner Basin pipeline and roadway and will issue several Guaranteed Maximum Price (GMPs) for the cost of design and construction. The request today is for the contract with SWI for engineering inspection services. The Project team will be back before Council in late August with GMP 3.

Purchasing staff issued a Request for Statement of Qualifications (RSOQ) solicitation on the PlanetBids online solicitation website, and advertised the solicitation in the Arizona Daily Sun on April 12 and April 19, 2023. On May 1, 2023, one Statement of Qualifications (SOQ) was received from SWI. A six member evaluation committee consisting of five staff members and one member from a local engineering firm, evaluated and scored the SOQ. SWI scored high and the evaluation committee determined that SWI was very qualified to provide the required inspection services at the Inner Basin Waterline.

Key Considerations:

The scope of this contract is to daily inspect the Project during the contractor's operations to certify that the work is in accordance with all applicable standards and specifications. This Project requires inspection of all work performed by the inspector at each of the designated sites along the pipeline.

The inspector will identify when changes to the design are required due to actual site conditions during construction. The inspector will work with Jacobs Engineering (Design Engineer) and make suggestions

on a site-by-site basis if a re-design is warranted. The inspector will also be responsible for the approval of the construction materials being utilized and installed during the construction of the Project to ensure that proper and applicable engineering standards and requirements are being satisfied.

Several points have been mapped where drainage channels cross Waterline Road (see attached map). Mitigation measures have been prioritized for these points. Points 1 through 28 were initially impacted by the Schultz Fire (2010) and were addressed by earlier mitigation measures. Some of these points were further impacted by the Pipeline Fire (2022). Points A through L were affected by the Pipeline Fire. Proposed mitigation sites include points 7, 9, 17A, 30, and I. Point I is the most heavily impacted site and includes a break in the ductile iron pipe. Additionally, there is also a break in the pipeline at Point 29A and Point 30, where the road is currently impassable.

The level of protection will be calculated by design engineers to encompass the newly burned watersheds and a determined storm event. The design will ensure critical protection of Waterline Road and the Inner Basin water pipeline.

The desired outcome is to ensure a reliable conveyance of well and spring water to the City of Flagstaff without any compromise to our water supply. Outcomes would also include a passable, stable road with drainage crossings that can safely and effectively pass water and debris while not compromising infrastructure integrity. Although the roadway will require some ongoing maintenance in terms of clearing debris from the road surface, this maintenance would not involve more construction or repairs.

The mitigation methods for the infrastructure system repair would be the creation of structures that are anchored and secured to protect the integrity of the road and waterline. Improvements will not stop the passage of water or debris, but rather they will allow the passage of water and debris while the watershed is in the process of being restored. By creating sound structures and systems, the road and new waterline will be able to function effectively and reliably even during flood events.

Expanded Financial Considerations:

This Project is funded completely by AZ Department of Forestry and Fire Management (DFFM) as part of House Bill 2001. The funding is 100% reimbursement funds, not to exceed $16.1 million.

Community Benefits and Considerations:

- Repairs to allow for continued use of critical, summertime, water supply
- Repairs to allow for water supply for fire-fighting operations
- When USFS forest closure restrictions lift, use of Waterline Road for recreational, non-vehicular, use

Community Involvement:

Inform, Involve, Empower:

- Project plans were shared with City Council at four previous meetings
- City Staff has worked with US Forest Service, AZ DEMA, Coconino County to share Project details and obtain permits and clearances during the pre-design phase
- Time-sensitive, emergency Project

Expanded Options and Alternatives:

1. Approve the Professional Services Contract for inspection services with SWI in the amount of $499,520.00 and a contract duration of 516 calendar days. Approval will allow this emergency Project to proceed; or,
2. Reject approval of the Professional Services Contract as recommended. This action would delay or cancel the emergency Project.
    a. If rejection occurs, possible options include:
        1. Ask staff to re-evaluate the recommendation; or
        2. Suspend or cancel the Project completely

Attachments: Inspection Services Agreement
Project Extent Map
Project Poster
Presentation

PROFESSIONAL SERVICES CONTRACT
Contract No.: 2023-95

This Contract is entered into this _____ day of _____, 20___, by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and Shephard Wesnitzer, Inc., an Arudurra Company, an Arizona corporation ("Consultant").

WHEREAS, the City desires to receive and Consultant is able to provide professional services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the City and Consultant (the "Parties") agree as follows:

SERVICES

1. Scope of Work: Consultant shall provide the professional services described as follows:

Inspection Services: Inner Basin Waterline Restoration Project

and as more specifically described in the scope of work attached hereto as ***Exhibit A.***

2. Schedule of Services: Consultant shall perform all work per the schedule in ***Exhibit A.***

3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as ***Exhibit B***, are hereby incorporated by reference, except to the extent modified in the Scope of Work attached as ***Exhibit A.*** If there is a conflict between this Contract and the Scope of Work, the Scope of Work shall prevail.

4. Key Personnel/Subcontractors: Consultant's Key Personnel, Subcontractors (if any), and contact information are designated in ***Exhibit A.*** Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative has the right to approve any proposed substitution of Key Personnel or Subcontractors.

CITY RESPONSIBILITIES

5. City Representative: The City Representative is David Pedersen, Senior Project Manager, or his designee. All communications to the City shall be through the City Representative. The City Representative is responsible for bringing any request for a Contract amendment or price adjustment to the attention of the City Buyer.

6. City Cooperation: The City will cooperate with Consultant by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Consultant's performance of this Contract.

CONTRACT TERM

7. Contract Term: The Contract term is for a period of three (3) years unless terminated pursuant to the Standard Terms and Conditions attached hereto as ***Exhibit B.*** This Contract will be effective as of the date signed by both parties. Performance shall commence within ten (10) days from City's issuance of the Notice to Proceed.

8. Renewal: The Contract may be renewed for up to two (2) additional one (1) year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

PAYMENT

9. Compensation: Consultant shall be paid **four hundred ninety-nine thousand five hundred twenty dollars and no cents ($499,520.00)** for satisfactory performance of the services in accordance with the Scope of Work identified in *Exhibit A.*

10. Price Adjustment: Any price adjustment must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds $50,000; otherwise, the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

DATA AND RECORDS

11. City Ownership of Document and Data: Any original documents prepared or collected by Consultant in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations, and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Consultant agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Consultant may have in the materials it prepares under this Contract, including any right to derivative use of the material.

12. Re-Use: The City may use the City's work product without further compensation to Consultant; provided, however, that the City's reuse without written verification or adaption by Consultant for purposes other than contemplated herein is at the City's sole risk and without liability to Consultant. Consultant shall not engage in any conflict of interest nor appropriate any portion of the City's work product for the benefit of Consultant or any third parties without the City's prior written consent.

13. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Consultant shall immediately deliver to the City copies all of the City's work product and any other documents and data accumulated by Consultant in performance of this Contract, whether complete or in process.

INSURANCE

14. Insurance: Consultant shall meet insurance requirements of the City, as set forth in *Exhibit C.*

MISCELLANEOUS

15. Notice: Any notice concerning this Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Patrick Brown
Purchasing Director
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
pbrown@flagstaffaz.gov

To Consultant:

Guillermo Cortes, PE
Group Manager, Northern Arizona
Shephard Wesnitzer, Inc., an Ardurra Company
110 W. Dale Avenue
Flagstaff, AZ 86001
gcortes@ardurra.com

With a copy to:

David Pedersen
Senior Project Manager
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
dpedersen@flagstaffaz.gov

16. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

SHEPHARD WESNITZER, INC., AN ARDURRA COMPANY

_____

Print name:_____

Title:_____

CITY OF FLAGSTAFF

_____

Print name:_____

Title:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

EXHIBIT A

SCOPE OF WORK

Article A. Background:

The City of Flagstaff (City) has requested from Shephard Wesnitzer, Inc. an Ardurra Company, (Consultant) a scope of services and accompanying fees for the Inner Basin Waterline Restoration Project. This scope of services is for assisting the City with Inspection of construction work performed by the Contractor (Hunter Contracting) in accordance with Design Plans & Specifications prepared by the Design Firm (Jacobs). The project is a design-build project and includes the following:

1. Construction/Reconstruction of access roads
2. Construction of staging areas and materials storage areas
3. Construction/Reconstruction of drainage crossings
4. Construction/Reconstruction of water lines

Consultant will assist the City with all aspects of site inspection, data management and productions, and modeling.

A breakdown of the services proposed are listed and described for each work item in Article B.

Article B. Scope of Services:

Item 1. Inspection Services

Consultant shall review plans and specifications for the project. Consultant shall support the City with inspection of all construction activities. Consultant will provide a qualified Senior Inspector full time for the duration of the project. Consultant will also provide a secondary inspector for times when two inspectors are needed to cover work activities in different areas. Consultant will provide Engineering Inspection and Resident Engineering assistance as needed to provide weekly direction of activities for areas that are being constructed as directed in the field to address current conditions. We have estimated a level of effort for each of these personnel based on a 40-week total schedule, understanding that work will commence immediately and will continue until weather forces stoppage, and then returning after winter to complete the construction scheduled for November 2024. It is also understood that the Contractor will have a four-day 10-hour work week. Inspection needs will be coordinated each week.

Item 2. Project Management and Meetings

Consultant personnel shall participate in various meetings and perform other tasks as needed for the project:

- Attend a startup kick-off meeting
- Prepare a project work plan
- Develop project forms and an FTP site for file storage/exchange
- Attend a pre-construction meeting
- Provide project administration
- Review/Approve pay applications

All activities are based on a 40-week schedule.

Article C. Compensation Provisions:

As compensation for providing the services described within this Contract, City shall pay Consultant in accordance based on a Time and Materials amount or per the Consultant's Per Diem Rates for the actual time worked on the Project and any approved Direct Expense incurred for the Project. The total budget ceiling for this Work is $499,520. A breakdown of the budget ceiling for this Contract is presented in Table C.1.

Table C.1—Budget Ceiling Breakdown

Work Task Breakdown	Work Task Cost Amounts
Inner Basin Waterline Restoration Inspection	
1. Inspection Services	$448,160
2. Project Management & Meetings	$31,610
3. Reimbursable Expenses	$19,750
Total Budget Ceiling	**$499,520**

The budget ceiling for the Project was developed from estimates of the level of effort required to perform the proposed services based on Consultant's experience and engineering judgment. Consultant shall keep City informed of progress so that the budget and/or work effort can be adjusted if found necessary. Consultant is not obligated to incur costs beyond the indicated budget ceiling, as may be adjusted, nor is City obligated to pay Consultant beyond these limits.

Assumptions:

a. Contract is based on information provided in the solicitation and by the City.
b. Contract assumes 40-week construction schedule.
c. All agency and/or permitting fees will be paid by the City.
d. Geotechnical / Materials testing is excluded from this proposal.
e. Structural Inspections / Special Inspections.
f. Contractor is responsible for obtaining all applicable construction permits for the project.
g. No survey services will be provided.
h. As-builts to be provide by contractor and reviewed by Consultant, revisions by Contractor.
i. Daily and weekly reports will be performed during the course of inspections.
j. Pay application approval can be performed during the source of inspections.

Article D. Authorization to Proceed:

Authorization for the Consultant to proceed with work specified in this Contract shall proceed upon receipt of notice to proceed.

Article E. Period of Service:

The schedule for the Project within this Task Order is as follows:

Authorization to Proceed	Work will be scheduled upon Authorization by City
Termination of Work	40 weeks or November 30, 2024

EXHIBIT B

STANDARD TERMS AND CONDITIONS

(Last Updated January 19, 2023)

*The term “Contractor” may substitute for the term “vendors,” “consultants,” or “firms,” depending on the purpose of the underlying Contract.

IN GENERAL

1. **PARTIES:** The City of Flagstaff (“City”) and the contractor identified in the Contract (“Contractor”) may be referred to individually as “Party” or collectively as “Parties”.

2. **NOTICE TO PROCEED:** Contractor shall not commence performance until after the City has issued a Notice to Proceed.

3. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract and provide copies to City upon request.

4. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of the Contract.

5. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, the Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

6. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

7. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

8. **QUALITY:** Contractor warrants that all materials supplied under the Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials and will be safe and appropriate for use as normally used. The City’s inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

9. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

10. **MANUFACTURER’S WARRANTIES:** Contractor shall deliver all Manufacturer’s Warranties to the City upon the City’s acceptance of the materials.

11. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

12. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

13. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

14. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor may not substitute nonconforming materials and/or services. Delivery of nonconforming materials and/or services, or a default of any nature, shall constitute a breach of the Contract as a whole.

15. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

16. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens, other than the security interest held by Contractor, until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

17. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

18. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number and dates when goods had been shipped or work performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

19. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, the City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

20. TAXES: Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of the Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line-item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

21. FEDERAL EXCISE TAXES: The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

22. FUEL CHARGES: Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by the City.

23. DISCOUNTS: If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by the City.

24. AMOUNTS DUE TO THE CITY: Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to the City or fees and charges owed to the City under the Contract.

25. OFAC: No payments may be made to any person in violation of Office of Foreign Assets Control regulations. 31 C.F.R. Part 501.

SERVICES

26. INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

27. CONTROL: Contractor shall be responsible for the control of the work.

28. WORK SITE: Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

29. SAFEGUARDING PROPERTY: Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.

30. QUALITY: All work shall be of good quality and free of defects, performed in a diligent and professional manner.

31. ACCEPTANCE: If the City rejects Contractor's work due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the

deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

32. WARRANTY: Contractor warrants all work for a period of one year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one year warranty is in addition to and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

33. RECORDS: The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five years after completion of the Contract.

34. RIGHT TO INSPECT BUSINESS: The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.

35. PUBLIC RECORDS: The Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law. A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

36. CONTRACT ADMINISTRATION: Contractor will be required to participate in the City's contract administration process. Contractor will be closely monitored for Contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION

37. GENERAL INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense, arising out of the acts, errors, or omissions of Contractor, its officers, agents, employees, and subcontractors, in performing or failing to perform the responsibilities identified in the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects, and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

38. INTELLECTUAL PROPERTY INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of the alleged infringement of any patent, trademark or copyright or other proprietary rights of any third-parties arising out of Contract performance

or use by the City of materials furnished or work performed under the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

39. NETWORK SECURITY AND PRIVACY LIABILITY: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from an against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

40. PRICE INCREASES: Except as expressly provided for in the Contract, no price increases will be approved.

41. COMPLETE AGREEMENT: The Contract is intended to be the complete and final agreement of the Parties.

42. AMENDMENTS: The Contract may be amended by written agreement of the Parties.

43. SEVERABILITY: If any term or provision of the Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted and the remainder of the Contract shall remain in full force and effect.

44. NO WAIVER: Both Parties have the right insist upon strict performance of the Contract, and the prior failure of a Party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

45. ASSIGNMENT: Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. Any

assignment without such consent shall be null and void. No assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to the City. The Purchasing Director shall have authority to consent to an assignment on behalf of the City.

46. BINDING EFFECT: The Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

47. SUBCONTRACTING: Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. The City reserves the right to withhold consent if the subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

48. NONDISCRIMINATION: Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor whose business is located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02, *Civil Rights*, which also prohibits discrimination based on sexual orientation, or gender identity or expression.

49. DRUG FREE WORKPLACE: The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.

50. IMMIGRATION LAWS: Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and federal immigration laws and regulations shall constitute a material breach of the Contract and shall subject Contractor to penalties up to and including termination of the Contract. The City may, at its sole discretion, conduct random verification of the employment records of the employees of the Contractor and any subcontractors to ensure compliance with all state and federal immigration laws and regulations. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contract if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

51. TERMINATION FOR DEFAULT: Prior to terminating the Contract for a material breach, the non-defaulting Party shall give the defaulting Party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting Party in writing. In the event the breach is not timely cured,

or in the event of a series of repeated breaches the non-defaulting Party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the Parties may execute all remedies available at law in addition to the Contract remedies provided for herein.

52. CITY REMEDIES: In the event of Contractor's default, the City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. The City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

53. CONTRACTOR REMEDIES: In the event of the City's default, Contractor may pursue all remedies available at law, except as provided for herein.

54. TERMINATION FOR NONAPPROPRIATION OF FUNDS: The City may terminate all or a portion of the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. TERMINATION FOR CONVENIENCE: Unless expressly provided for otherwise in the Contract, the Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If the Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by the City before the effective date of termination.

56. TERMINATION DUE TO INSOLVENCY: If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate the Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. PAYMENT UPON TERMINATION: Upon termination of the Contract, the City will pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. CANCELLATION FOR GRATUITIES: The City may cancel the Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with award or performance of the Contract.

59. CANCELLATION FOR CONFLICT OF INTEREST: Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. COOPERATIVE PURCHASE CONTRACTS: Presuming that Contractor agreed to such during the procurement process, Contractor will enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell materials and services to any member of a cooperative group under the same pricing, terms and conditions of the contract awarded to the Contractor by the public procurement unit, following a competitive procurement process.

61. ADVERTISING: Contractor shall not advertise or publish information concerning its Contract with the City without the prior written consent of the City.

62. NOTICES: All notices given pursuant to the Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other Party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four days after being sent; or (c) sent by overnight courier, with receipt deemed effective two days after being sent. Notice may be sent by email as a secondary form of notice.

63. THIRD PARTY BENEFICIARIES: The Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.

64. GOVERNING LAW: The Contract shall be construed in accordance with the laws of Arizona.

65. FORUM: In the event of litigation relating to the Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

66. ATTORNEYS' FEES: If any action at law or in equity is necessary to enforce the terms of the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

67. FORCE MAJUERE:

a. There may be events that occur during the term of the Contract that are beyond the control of both the City and Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God ("Events"). These Events may result in a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables that are the subject of the Contract.

b. There shall be no claims arising from a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables caused by the Events and the City shall not pay additional costs incurred by Contractor as a result of such Events.

c. The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and that the extension will be in an amount of time equal to any temporary delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

68. NO BOYCOTT OF ISRAEL: Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents ($100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

69. CHANGES TO CONTRACT: The Contract shall not be modified within the first year after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other proposers/bidders; or (b) requests for changes may delay commencement of performance.

70. FORCED LABOR OF ETHNIC UYGHURS: If Contractor engages in for-profit activity and has ten (10) or more employees, pursuant to A.R.S. §35-394, the Contractor certifies that it does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If the Contractor becomes aware during the term of the contract that the company is not in compliance with the written certification, the Contractor shall notify the City within five (5) business days after becoming aware of the noncompliance. If the Contractor does not provide the City with a written certification that the Contractor has remedied the noncompliance within 180 days after notifying the City of the noncompliance, this Contract terminates, except that if the contract termination date occurs before the end of the remedy period the Contract terminations on the Contract termination date.

EXHIBIT C

STANDARD INSURANCE REQUIREMENTS

(Last Updated January 19, 2023)

*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

1. IN GENERAL: Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with the Contract by Contractor, its agents, representatives, employees, and/or subcontractors.

2. REQUIREMENT TO PROCURE AND MAINTAIN: Each insurance policy required by the Contract shall be in effect at, or before, commencement of work under the Contract and shall remain in effect until all of Contractor's obligations under the Contract have been met, including any warranty periods. Contractor's failure to maintain the insurance policies as required by the Contract, or to provide timely evidence of renewal, will be considered a material breach of the Contract.

3. MINIMUM SCOPE AND LIMITS OF INSURANCE: The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Where applicable, as related to the Scope of Work, Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	$2,000,000
Products/Completed Operations	$1,000,000
Each Occurrence	$1,000,000

b. Umbrella Coverage $2,000,000

c. Automobile Liability

Any Automobile or Owned, Hired, and Non-owned Vehicles Combined Single Limit Per Accident for Bodily Injury & Property Damage	$1,000,000

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	$1,000,000
Disease - Each Employee	$1,000,000
Disease - Policy Limit	$1,000,000

e. Professional Liability $2,000,000

f. Network Security and Privacy Liability

Per claim	$2,000,000
Annual Aggregate	$2,000,000

4. **NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall maintain the requisite insurance requirements covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. The insurance policy shall include coverage for third-party claims. The insurance policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.

5. **SELF-INSURED RETENTION:** Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that Contractor reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and/or subcontractors. Contractor shall be solely responsible for any self-insured retention amounts. The City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

6. **OTHER INSURANCE REQUIREMENTS:** The insurance policies shall contain, or be endorsed to contain, the following provisions:

   a. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.

   b. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.

   c. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.

   d. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

   e. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.

f. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

7. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of the Contract shall provide the required coverage and shall not be suspended, voided, cancelled, and/or reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Procurement Agent and shall reference the Contract Number.

8. ACCEPTABILITY OF INSURERS: Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

9. CERTIFICATES OF INSURANCE: Contractor shall furnish the City with certificates of insurance (ACORD form) as required by the Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City Contract number shall be noted on the certificates of insurance. If requested by the City, all certificates of insurance and endorsements must be received and approved by the City before the Contractor commences work.

10. POLICIES: The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by the Contract. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under the Contract.

11. MODIFICATIONS: Any modification or variation from the insurance requirements in the Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

Inner Basin Waterline

Flood-Impacted Sites

Lockett Meadow

FSR 553

FSR 6437

Well 1

Well 2

Well 3

A

B

C

D

E

F

G

H

I

J

K

L

01

02

03

3A

3B

04

05

06

07

08

11

12

13

14

15

16

17

17A

18

18A

19

20

21

22

22B

24

24A

25

25A

26

26A

27

28

29

29A

30

31

32

33

34

35

Pipeline New Burn Area

Schultz Fire Reburn Area

FSR 420

FSR 420

FSR 556

Schultz Creek Watershed

N

0 1 2 Mile

Sites

Access Road

Waterline Road

Schultz Creek and Tributaries

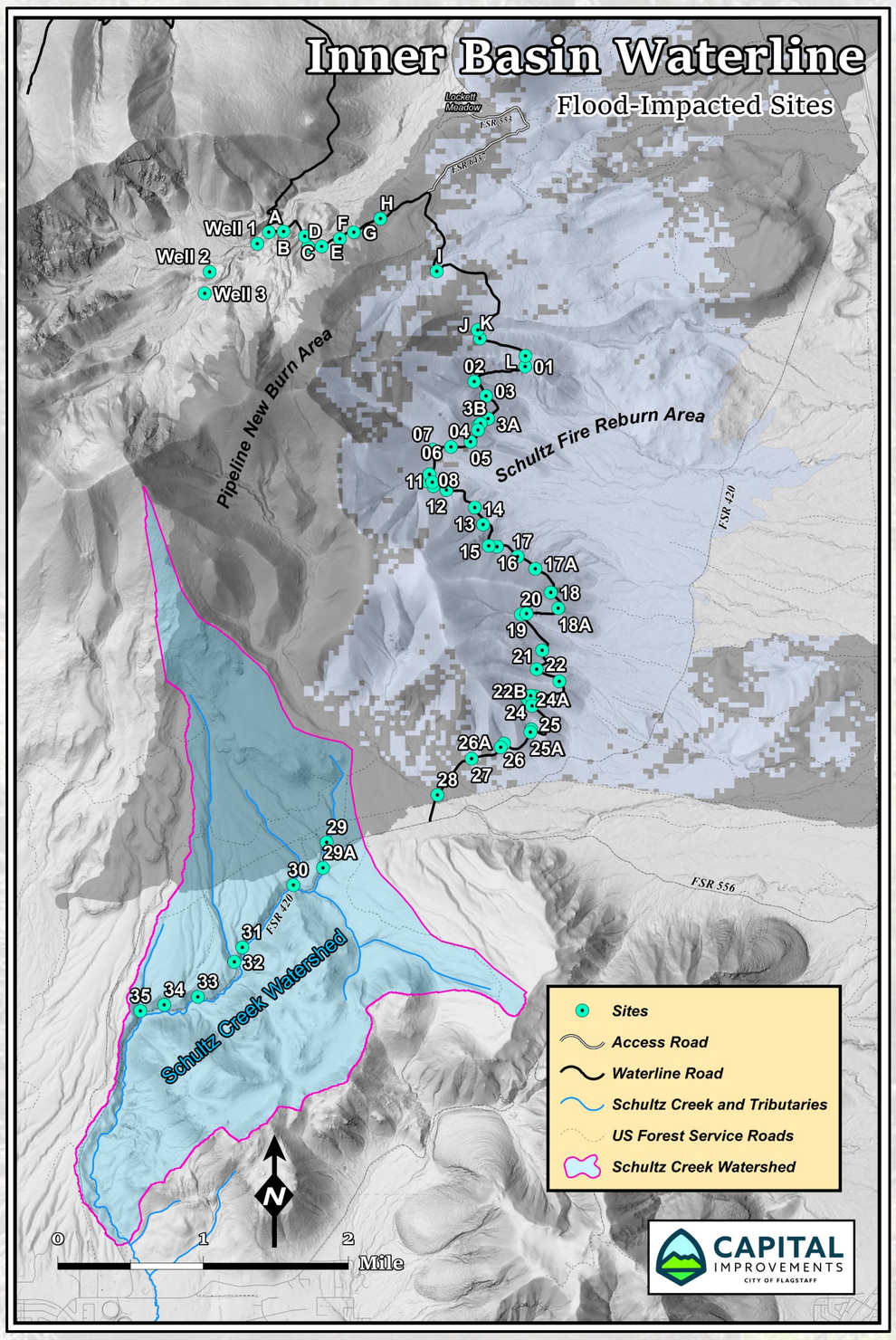
US Forest Service Roads

Schultz Creek Watershed

CAPITAL IMPROVEMENTS

CITY OF FLAGSTAFF

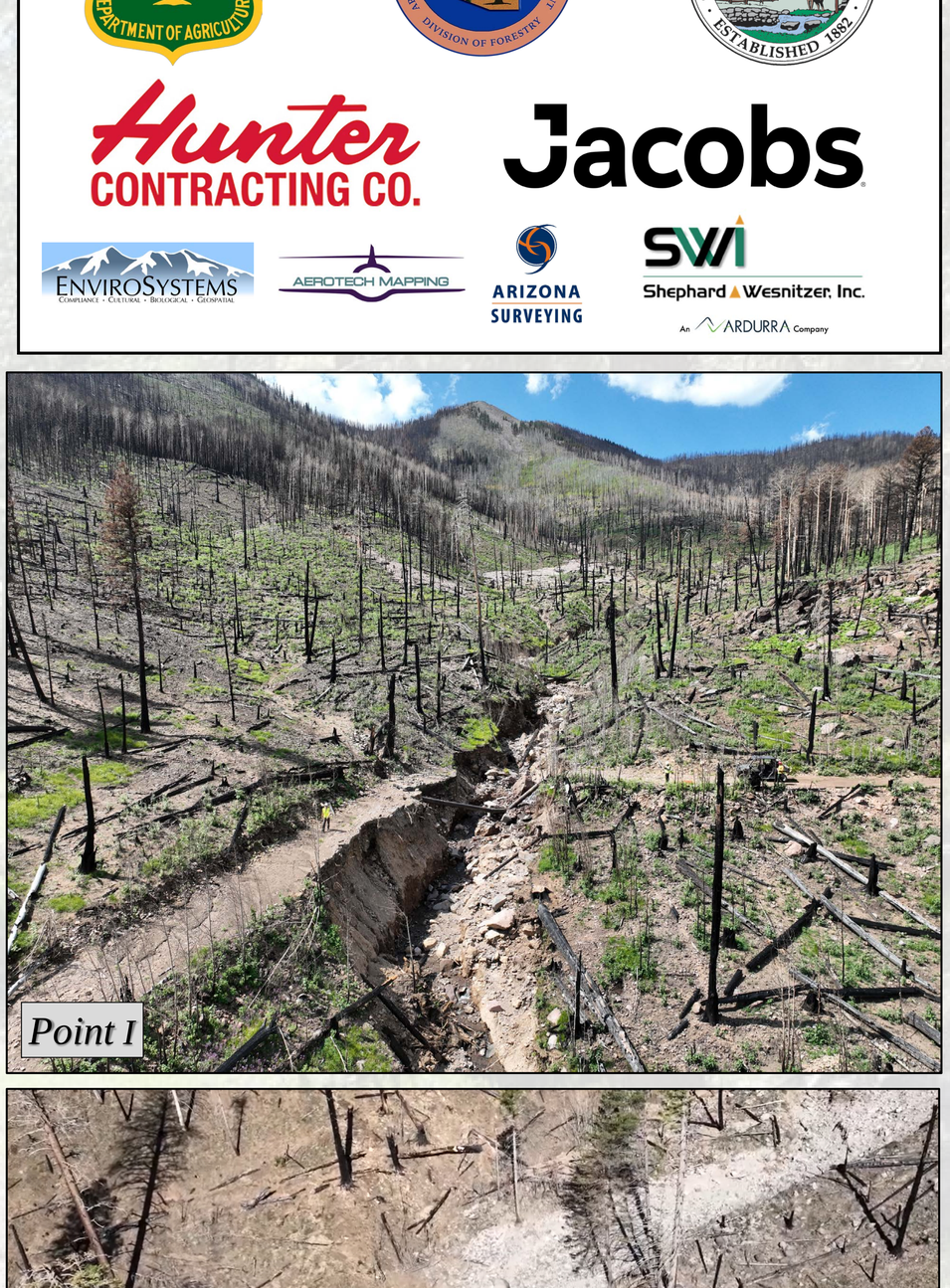
Inner Basin Waterline Project




Point 30


Point 30

Project Partners



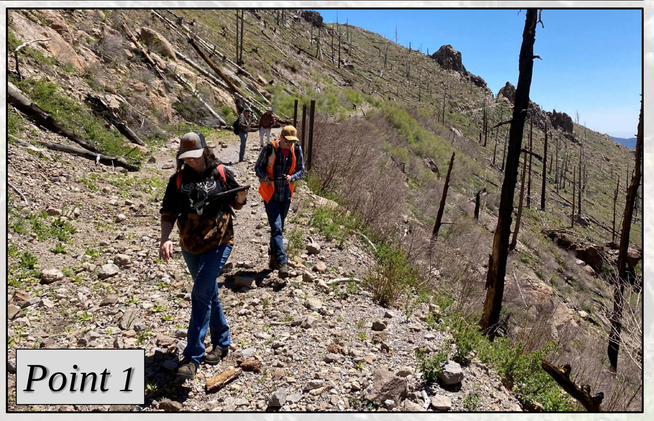

Point I

Point 7


Point I


Point 26


Point 20

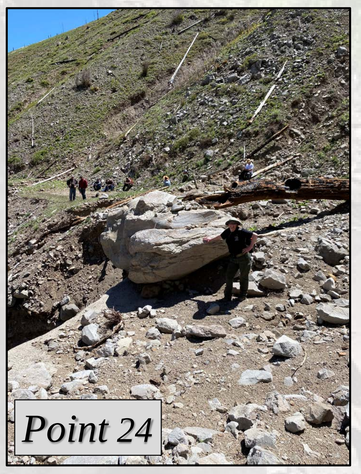

Point 1

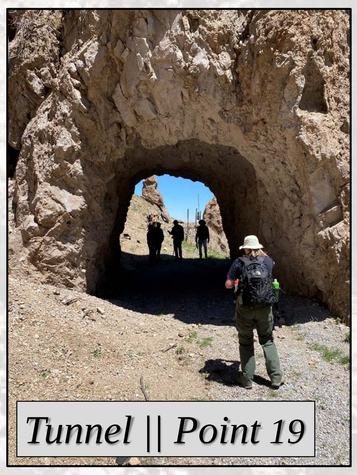
Project Details

- Repair at **45 Points** along Schultz Pass and Waterline Roads
- Three **known breaks** in the waterline pipe
- Multiple other locations where the **pipe is compromised**
- Project extent is an elevation of 7600’ to 9500’, over **12-mile reach**
- **2 to 4 million gallons of water per day** being lost - this value constitutes up to 20% of Flagstaff’s daily summer water supply
- These two roadways also have **critical spots which are impassable**; this project will repair access for authorized vehicles and recreationalists
- The **armored restoration repairs** will offer protection to the road and waterline in future flooding events, which most often arise from localized monsoonal storm activity


Point 22


Point 9


Point 24


Tunnel || Point 19


Point A


Point 30



Inner Basin Waterline Restoration Project

3 July 2023

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Project Stakeholders

- US Forest Service
- AZ Dept Forestry and Fire Management (DFFM)
- Hunter Contracting
- Jacobs Engineering
- Shephard-Wesnitzer, Inc.
- City Staff



Waterline Road – Tunnel

Exciting News

Decision Memo!

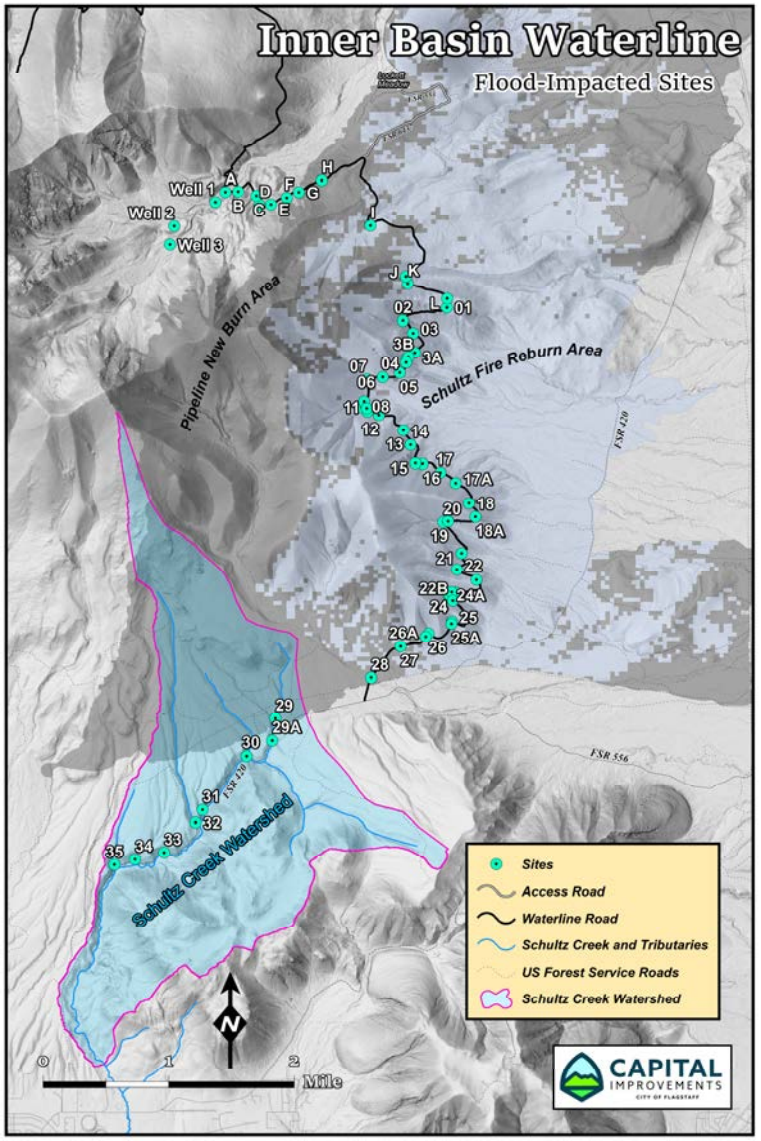
US Forest Service Issued Decision

- Allows **Restoration Construction** to Begin
- Allows Use of Pre-approved **Staging Areas**
- Culminates ~**6 months of work** by Scores of People from Several Agencies and Consultants

Brief Update

Since Beginning of May…

- First Team **Field Visit** of All Sites – 2 Days
- Copious **Grading and Road Maintenance**
- LiDAR and **Aerial Imagery** Acquisition
- **Decision Memo** Clearances and Verifications
- **Cultural** and **Environmental** Studies
- Prioritizations of **Design** and **Repair Work**



Project Map

Field Day Photos










Inspection Services

Contractor

- Shephard-Wesnitzer, Inc (SWI)

Details



- **$499,520.00**
- Contract Period of **516 Calendar Days**
- **Review** Plans and Specifications
- Provide Inspection of All **Construction Activities**
- Daily and Weekly **Reports**
- **Compliance** with Installation and Materials for Construction

Questions & Comments



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Michelle McNulty, Planning Director
Co-Submitter:	Sarah Darr, Housing Director
Co-Submitter:	Nicole Antonopoulos
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract: A Professional Services Contract with DOWL, LLC in an amount not to exceed $523,993.00 for a Land Availability and Suitability Analysis and a Development Code and Process Analysis

STAFF RECOMMENDED ACTION:

1. Award a Professional Services Contract with DOWL, LLC, in an amount not to exceed $523,993.00 for a Land Availability and Suitability Analysis and a Development Code and Process Analysis; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Approval of this Professional Services Contract with DOWL, LLC (DOWL) will allow for the completion of a land availability and suitability study (LASS) and multi-pronged Code analysis. The purpose of the LASS is to understand what land is available within the Flagstaff city limits for development and redevelopment/infill and the barriers that exist.

The Code analysis portion of the project will analyze City codes applied to development projects and will identify what works well and where are there barriers to meeting the City's housing and sustainability goals and policies. This effort will be completed in partnership between Community Development's Planning and Development Services and Housing Section, the Transportation Division and the Sustainability Division.

Financial Impact:

The City committed one time funds during the FY 2022-23 budget process and those funds were carried forward into the FY2023-24 Budget. Funding for this Professional Services Contract will come from four (4) separate accounts and an outside partner: Engineering (001-10-102-0310-4-4208) $25,000, Housing (021-05-106-0360-4-4206) $125,000, Sustainability (214-12-170-0671-0-4290) $100,000 and Planning and Development (001-05-104-0330-4-4206) $250,000.

It is anticipated that Mountain Line will partner with the City on this project and will reimburse the City for its share of the Scope of Services, currently estimated at approximately $32,000, through an IGA that will be coming to Council later this year.

Policy Impact:

It is anticipated that DOWL will collect data and create a report that will yield recommendations to update City codes and/or standards to better align with the Housing and Climate Emergencies, as well as, the Active Transportation Management Plan.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High performing governance
Safe and healthy community
Inclusive and engaged community
Sustainable, innovative infrastructure
Robust resilient economy
Livable community
Environmental stewardship

Carbon Neutrality Plan

Goal E.1. Increase energy efficiency.
Goal E&C.1. Proactively improve and maintain the region's air quality.
Goal E&C.2 Reduce Greenhouse gas emissions.
Goal E&C.3 Strengthen community and natural environment resiliency through climate adaptation efforts.
Goal E&C.4. Integrate the best available science into all policies governing the use and conservation of Flagstaff's natural resources.

Regional Plan

Goal E&C.2. Achieve carbon neutrality for the Flagstaff community by 2030.
Goal E&C.3. Prepare Flagstaff's community systems and resources to be more resilient to climate change impacts, and address climate change in a manner that prioritizes those most impacted and ensures the costs and benefits of climate adaptation and mitigation are equitably distributed.
Goal E&C.4. Integrate available science into policies governing the use and conservation of Flagstaff's natural resources.
Goal LU.4. Balance housing and employment land uses with the preservation and protection of our unique natural
and cultural setting.
Goal LU.6. Provide for a mix of land uses.
Goal LU.10. Increase the proportion of urban neighborhoods to achieve walkable, compact growth.
Goal NH.3. Make available a variety of housing types at different price points, to provide housing opportunity for all
economic sectors.

Has There Been Previous Council Decision on This:

There have been no previous Council decisions on this.

Background/History:

Purchasing staff published a Request for Statement of Qualification (RSOQ) solicitation for Land Availability and Suitability Analysis and a Development Code and Process Analysis services in the Arizona Daily Sun on March 19, 2023, and March 26, 2023, and posted the solicitation to the City of Flagstaff's PlanetBids Website on March 10, 2023. The City received two (2) Statement of Qualifications (SOQ) from Consultant Firms. A six-member Selection Committee consisting of City staff reviewed and evaluated the SOQs. Based upon the numerical scoring of the SOQ, the Selection Committee identified

the highest scoring proposer as DOWL, LLC. Final scores of all firms are as follows:

DOWL, LLC	835
Clarion	674

DOWL demonstrated a clear recognition of the knowledge and experience to handle the project at hand.

Attachments: Dowl, LLC Contract
Presentation

PROFESSIONAL SERVICES CONTRACT
Contract No.: 2023-62

This Contract is entered into this _____ day of _____, 20___, by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and DOWL, LLC, an Oregon Limited Liability Company ("Consultant").

WHEREAS, the City desires to receive and Consultant is able to provide professional services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the City and Consultant (the "Parties") agree as follows:

SERVICES

1. Scope of Work: Consultant shall provide the professional services described as follows:

PROFESSIONAL PLANNING SERVICES
Land Availability and Suitability Analysis and a
Development Code and Process Analysis

and as more specifically described in the Scope of Work attached hereto as ***Exhibit A.***

2. Schedule of Services: Consultant shall perform all work per the schedule in ***Exhibit A*** and ***Exhibit E.***

3. Special Terms and Conditions: The City of Flagstaff Special Terms and Conditions, attached hereto as ***Exhibit C***, are hereby incorporated by reference and shall apply to performance of this Contract, except to the extent modified in ***Exhibit A.***

4. Key Personnel/Subcontractors: Consultant's Key Personnel, Subcontractors (if any), and contact information are designated in ***Exhibit A.*** Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this Contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

CITY RESPONSIBILITIES

5. City Representative: The City Representative is Michelle McNulty, Planning Director, or her designee. All communications to the City shall be through the City Representative. The City Representative is responsible for bringing any request for a Contract amendment or price adjustment to the attention of the City Buyer.

6. City Cooperation: City will cooperate with Consultant by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Consultant's performance of this Contract.

CONTRACT TERM

7. Contract Term: The Contract term is for a period of two (2) years unless terminated pursuant to the Special Terms and Conditions attached hereto as ***Exhibit C.*** This Contract will be

effective as of the date signed by both Parties. Performance shall commence within ten (10) days from City's issuance of the Notice to Proceed.

8. Renewal: The Contract may be renewed for up to three (3) additional one (1) year terms by mutual written consent of the Parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

PAYMENT

9. Compensation: Consultant shall be paid an amount not to exceed **five hundred twenty-three thousand nine hundred ninety-three dollars and zero cents ($523,993.00)** for satisfactory performance of the services in accordance with the Project Budget identified in ***Exhibit B.***

10. Third-Party Contribution: A third-party may contribute a portion of the compensation identified in this Contract. If the third-party does not contribute, and the Scope of Work is narrowed, the compensation may be reduced to reflect the reduction in the Scope of Work and the reduction in the Project Budget.

11. Price Adjustment: Any price adjustment must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds $50,000; otherwise, the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

DATA AND RECORDS

12. City Ownership of Document and Data: Any original documents prepared or collected by Consultant in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations, and other data shall be the property of City ("City's work product"), unless otherwise agreed by the Parties in writing. Consultant agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Consultant may have in the materials it prepares under this Contract, including any right to derivative use of the material.

13. Re-Use: The City may use the City's work product without further compensation to Consultant; provided, however, that the City's reuse without written verification or adaption by Consultant for purposes other than contemplated herein is at the City's sole risk and without liability to Consultant. Consultant shall not engage in any conflict of interest nor appropriate any portion of the City's work product for the benefit of Consultant or any third parties without the City's prior written consent.

14. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Consultant shall immediately deliver to the City copies all of the City's work product and any other documents and data accumulated by Consultant in performance of this Contract, whether complete or in process.

INSURANCE

15. Special Insurance Requirements: Consultant shall meet the Special Insurance Requirements, as set forth in ***Exhibit C.***

MISCELLANEOUS

16. Notice: Any notice concerning this Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Emily Markel
Procurement Specialist
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
emarkel@flagstaffaz.gov

To Consultant:

Read Stapleton
Project Manager
DOWL, LLC
7200 NE 41st Street
Vancouver, Washington 98665
rstapleton@dowl.com

With a copy to:
Michelle McNulty
Planning Director
Community Development
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
Michelle.McNulty@flagstaffaz.gov

(Remainder of Page Intentionally Blank)

17. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

CONSULTANT

_____

Print name:_____

Title:_____

CITY OF FLAGSTAFF

_____

Print name:_____

Title:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

EXHIBIT A

SCOPE OF SERVICES

(Attached)

Project No.: _____

Exhibit A to Standard Agreement for Professional Services
Scope of Services

Defined Terms

Code – Unless a specific code is identified, "Code" is inclusive of the following codes as well as any other codes, standards, policies, plans, or other similar document identified by the City for a given task:

- Fire Code
- Engineering Design Standards and Specification for New Infrastructure
- Zoning Code
- General Plans and Subdivisions
- Public Ways and Property
- Building Regulations
- Transportation Impact Analysis Manual
- Incentive Policy for Affordable Housing

Consultant Team – DOWL, Cascadia Partners, GBD Architects, and Building Community Flagstaff make up the consultant team.

1.0 – Meetings, Coordination and Public Outreach

1.1 Project Kickoff Meeting and Preliminary Reconnaissance: DOWL and Cascadia Partners (CP) will prepare for and attend an initial project kickoff meeting in Flagstaff. It is intended for the meeting to involve key City staff to provide input into the project approach and discuss the project schedule and delivery milestones for the project. Following the project kickoff meeting it is assumed that the project team will conduct a reconnaissance of preliminary vacant and partially vacant residential and non-residential sites to review, assess and evaluate the results from a preliminary desktop-level screen of vacant and partially vacant properties.

1.2 Project Meetings and Coordination: The Consultant Team anticipates preparing for and attending up to 30, 1-hour virtual meetings with the City project team over the course of the project, estimated to be approximately 12 months, to review and discuss project execution. It is assumed that the consultant will prepare and distribute meeting agendas and minutes from these meetings. Unused budget for meetings may be substituted to provide additional coordination via emails, phone calls, memoranda and plan distribution or document distribution.

1.3 Commission/Council Meetings: The Consultant Team will prepare for, attend and present at a total of four (4) Planning and Zoning Commission and/or Council Meetings. It is assumed that one of these meetings, likely the final presentation of findings, will be in Flagstaff. Efforts assume the preparing and leading up to two separate presentations for these meetings.

1.4 Developer and Developer Stakeholder Outreach / Focus Groups (Time & Materials): The Consultant Team will prepare for and lead two focus group meetings with stakeholders to solicit input regarding perceived constraints and barriers to providing greater housing density and to development approaches that could reduce carbon emissions consistent with the City's Carbon Neutrality Plan. It is assumed that the City will help identify developer stakeholders for these meetings and will take the primary coordination role with these stakeholders, while the Consultant Team will prepare the list of questions, agenda and content for the focus group sessions, as well as the assemblage of minutes from the group sessions. This task assumes that the Consultant Team will conduct up to five follow up interviews with developers as needed to solicit more detailed input regarding perceived Code obstacles. DOWL and Cascadia Partners will virtually participate in the two developer focus group meetings and the individual developer stakeholder meetings.

1.5 Advisory Committee Meetings (Time & Materials): The Consultant Team will prepare for, attend and present at a total of three (3) advisory committee meetings. DOWL and CP attendance at committee meetings will be virtual.

1.6 Community Outreach/Engagement (Time & Materials): Building Community Flagstaff (BCF) will prepare and execute a community outreach plan that is likely to include a combination of one-on-one meetings with stakeholder interests and up to two focus group meetings to educate parties with an interest in the outcomes of the City's 10-year Housing Plan and Carbon Neutrality Plan on the purpose of the scope of work and project milestones. DOWL and Cascadia Partners will virtually attend the two focus group meetings and the one-on-one meetings, however BCF will attend in person.

1.7 City-Requested Additional Meetings (Time & Materials). Additional meetings requested by the City in excess of those meetings set forth in this Scope of Services shall be charged on a time and materials basis at the rates set forth in Exhibit B, the Project Budget.

2.0 – Land Availability and Suitability Analysis

2.1 Vacant and Partially Vacant Land Analysis: DOWL will work with the City to reach a consensus regarding the criteria for determining what is vacant and what sites might be partially vacant but can be reasonably assumed to be available for infill or development. Minimum parcel sizes, assessed value improvements, and other factors are critical to establishing the land areas that will be assessed for development potential. Possible vacant site categorizations may include "vacant land", "partially vacant land", "public land" and "unbuildable land." After determining the parameters for the study, DOWL will conduct a GIS analysis to identify Vacant and Partially Vacant residentially-zoned and non-residentially zoned lands within the designated study area boundary that have the potential for development or redevelopment for greater housing capacity. After a preliminary inventory is developed, DOWL will review the preliminary inventory with City staff to determine if there are any constraints, planned projects or other factors that would likely preclude further development. Following this review, DOWL will finalize the inventory for inclusion in the final report.

2.2 Suitability Analysis - Policy Recommendations and Framework Matrix: Based on the team's research and observation of constraints within the preliminary inventory that impinge on residential land area and/or disrupt the ability to bring residential projects to market, DOWL will create a matrix that will identify potential process improvements that could benefit the delivery and realization of greater residential yield in the City.

2.3 Infrastructure Gap Analysis: DOWL will work with the City to establish the baseline criteria for utility and infrastructure service to sites for them to be considered viable for development. This will include but not be limited to an evaluation of the proximity of the sites to transportation infrastructure, gravity sewer, water lines, and downstream stormwater conveyance opportunities. DOWL will identify the extent of improvements necessary to serve development and will focus on sites that are (1) within or immediately adjacent to the City limits and (2) have the greatest potential for residential development currently or (3) have the greatest potential for residential development but for the identified infrastructure gap(s). It is assumed that the analysis will consider and review approximately 50 such "Opportunity Sites" identified from the vacant and partially vacant land analysis and approved by the City.

2.4 Regional Development Cost Reduction Strategies: Upon identification of critical service gaps and possible capital facilities needs to serve residential Opportunity Sites, DOWL will review and identify any available strategies in which the development costs for public improvements could be reduced to minimize the private and/or public costs necessary to complete infrastructure service gaps to opportunity residential sites. Any high-impact findings will be incorporated into the final report outlined in Section 5.7.

2.5 Suitability Analysis – Evaluation of Site Constraints: DOWL will conduct a preliminary field reconnaissance of the Opportunity Sites and will consult project stakeholders identified by the City, if applicable, to review the accuracy of the GIS model and to evaluate factors not included in GISthat could constrain the development of the sites. From review and examination of constraints found on the properties, DOWL will identify Codes, standards, policies, and City development processes that have the potential to be a barrier to carbon neutrality and housing affordability.

2.6 Vacant Residential Land and Site Suitability Report: DOWL will consolidate the methodology, analysis and conclusions of the vacant and partially vacant land analysis and site suitability evaluation in a single

illustrative plan document. This task assumes both a draft and final version of the report and assumes two rounds of City review. The section round is intended to verify incorporation of first round comments by the City.

3.0 – Development Code Diagnosis

3.1 – Code Diagnosis Approach Memorandum: Prior to beginning this analysis in detail, CP will prepare an Approach Memo that describes in detail the scope and methodology of the analysis and format of the deliverable. The City will determine the scope and the format of deliverable, with input from CP as requested by the City, and the City and CP will jointly determine the methodology. CP may not commence work until the City has approved the Approach Memo. The scope of the Code diagnosis, concepts, and recommendations set forth below will address the following codes and any other identified affected codes, standards, policies, plants, etc. identified by the City:

- Fire Code
- Engineering Design Standards and Specification for New Infrastructure
- Zoning Code
- General Plans and Subdivisions
- Public Ways and Property
- Building Regulations
- Transportation Impact Analysis Manual
- Incentive Policy for Affordable Housing

3.2 – Recent Project Case Studies: CP will conduct a review of application materials from up to 7 selected recent development projects in order to assess potential impacts of the Code and development review processes on real projects.

3.3 – Equity and Displacement Vulnerability Assessment: CP will conduct a demographic and spatial analysis of the city to assess which neighborhoods are more vulnerable to the potential negative impacts of Code changes in accelerating gentrification and residential displacement.

3.4 – Building-related Code Diagnosis: GBD Architects (GBD) will review application materials from recent project case studies identified in Task 3.2 and applicable Code provisions to identify and evaluate the following:

- The impact of the Building, Energy and Plumbing Code requirements on residential construction costs and density, particularly related to potential for adaptive reuse projects.
- The implications of Flagstaff's supplemental Fire Code provisions on the costs of residential construction, density and carbon neutrality.

GBD will also identify any potential improvements to City standards that could reduce costs associated with housing development and/or improve advancement towards the City's carbon neutrality goals. Findings from this analysis will be summarized in a memorandum.

3.5 – Engineering Standards Diagnosis: DOWL will review application materials from recent project case studies identified in Task 3.2 and applicable Code provisions to identify and evaluate the impact of the city's engineering standards, including transportation impact analysis requirements, on housing affordability and carbon neutrality. DOWL will also identify any potential engineering standards that could be modified in a manner that would reduce costs associated with housing development and/or improve advancement towards the City's carbon neutrality goals. Findings from this analysis will be summarized in a brief report and included in a matrix summary.

3.6 - Development Prototype Modeling: CP will conduct up to 10 (at the City's discretion) physical and financial development prototype modeling of prototypical developments that are most likely to occur under existing zoning and development standards. These models will result in 3D diagrams and real estate pro-formas that will be used to evaluate the impact of the Code on housing affordability, carbon neutrality, and economic feasibility. This modeling will also evaluate both regulatory and financial incentives for affordable housing. GBD will provide peer review of this modeling effort to offer practical guidance regarding the potential to achieve the residential yields provided by preliminary prototype modeling and to provide insights into potential residential yield gains and carbon reduction benefits from suggested building-related Code improvements.

3.7 – Code Diagnosis Deliverable: CP will diagnose and summarize findings regarding Code issues and opportunities. CP will also evaluate the magnitude of the impact of various Code provisions on policy goals. A range of analytical methods will be applied to evaluate these impacts. The following methods will be applied to the Code diagnosis, unless otherwise approved by the City Planning Director:

- Application of a matrix of adopted policy goals related to housing and carbon neutrality from Flagstaff Carbon Neutrality Plan and the Flagstaff 10-Year Housing Plan. The matrix will provide a framework for evaluating Code provisions. City staff will be responsible for preparing the matrix.
- Collection of data to be used in quantitative analysis and modeling of the Code.
- Review of all relevant Code sections to prepare an inventory of all potential barriers, conflicts, and opportunities to advance both housing and carbon neutrality goals.
- Mapping of the development review processes required by the City for various types of development and identification of unnecessary steps in the review process or other barriers and conflicts with affordable housing and carbon neutrality goals.
- Spatial and quantitative analysis of existing conditions within each zone district, such as typical lot sizes, density, and intensity of development, in order to inform appropriate Code updates.

The Code diagnosis will be documented in either a slide presentation, memorandum, report, or a combination of formats. The appropriate format will be determined by the City and identified in the Approach Memo.

4.0 – Code Update Concepts

4.1 – Code Update Concepts Approach Memorandum: Prior to beginning this analysis in detail, CP will prepare an Approach Memo that describes in detail the scope and methodology of the analysis and format of the deliverable. The City will determine the scope and the format of deliverable, with input from CP as requested by the City, and the City and CP will jointly determine the methodology.

4.2 – Best Practices and Literature Review: CP will research and summarize innovative and effective practices of other jurisdictions related to housing affordability and carbon neutrality. CP will also review and summarize key findings of research and academic literature pertaining to the impact of Zoning or Building Codes on housing affordability or carbon neutrality. Practices that are currently implementable under Arizona law will be prioritized, but other impactful best practices may be included.

4.3 – Staff Brainstorm Meetings: As desired by the City, City staff will conduct and facilitate, on their own, a series of open-ended brainstorm meetings to workshop potential Code update concepts provided by the Consultant Team. CP will incorporate City suggested concepts into its Code update concepts analysis.

4.4 – Code Update Concepts Analysis: CP will incorporate the research and analyses from the Land Availability and Suitability Analysis, the Opportunity Sites analysis, the 7 identified recent development projects, and the development prototype analysis, among other sources, to prepare a high-level, conceptual assessment of potential areas for Code updates. This analysis will be incorporated into the deliverable set forth in Section 4.5.

4.5 – Code Update Concepts Deliverable: CP will explore and evaluate potential Code updates in general and conceptual form to inform more specific recommendations that most effectively address local conditions and issues. The following methods will be applied to the Code update concepts, unless otherwise approved by the City Planning Director:

- Development of a range of conceptual Code updates that would address the barriers, conflicts, and opportunities identified in the Code diagnosis.
- Quantitative evaluation of the impact of a set of key conceptual Code updates, using the development prototype models produced in Task 3, where necessary to assess the feasibility or inform further refinement of the concept.
- Identification and prioritization of Code updates that can simultaneously advance both housing affordability and carbon neutrality goals.

The Code update concepts will be documented in either a slide presentation, memorandum, report, or a combination of formats. The appropriate format will be determined by the City and identified in the Approach Memo.

5.0 – Code Recommendations and Impact Report

5.1 – Code Recommendations and Impacts Approach Memorandum: Prior to beginning this analysis in detail, CP will prepare an Approach Memo that describes in detail the scope and methodology of the analysis and format of the deliverable. The City will determine the scope and the format of deliverable, with input from CP as requested by the City, and the City and CP will jointly determine the methodology.

5.2 – Code Recommendations: CP will refine key Code update concepts into more detailed, actionable recommendations for either specific Code changes or further evaluation of conceptual changes. CP will also compile and describe all recommended Code changes, including minor changes that were not addressed in the Code update concepts. CP will prepare specific recommendations for the Incentive Policy for Affordable Housing that addresses both regulatory and financial incentives and is consistent with local conditions and needs.

5.3 – Code Impact Modeling - Prototypes: Following City review and approval of CP's recommended Code updates, CP will assess the physical and financial impacts of the recommended Code updates on the development prototype models prepared for the Code diagnostic. Metrics to be evaluated will address housing affordability, carbon neutrality, and economic feasibility, unless otherwise approved by the City Planning Director.

5.4 – Code Impact Modeling – Citywide Housing Capacity: CP will model the citywide housing unit capacity under the existing Code and the impact of recommended Code changes on overall housing unit capacity. Housing capacity can be disaggregated by housing type. CP will also use economic modeling to project the locations where housing development is most likely to occur based on prototype models, market rents/sale prices, and land values.

5.5 – Code Impact Modeling – Equity and Displacement: Using the housing capacity modeling, CP will provide an assessment of the potential impact of recommended Code changes on development in neighborhoods with populations more vulnerable to displacement and gentrification. This task requires the completion of Task 5.4.

5.6 – Code Impact Modeling – Sustainability and Carbon Neutrality: Using the housing capacity modeling, CP will evaluate the citywide sustainability impacts and co-benefit with housing affordability and sustainability of Code changes. Metrics to be evaluated will include but are not limited to total greenhouse gas emissions (related to transportation, building energy use, or both); water use; average vehicle miles traveled per household; or housing capacity near transit, unless otherwise approved by the City Planning Director. This task requires the completion of Task 5.4.

5.7 – Code Recommendations and Impacts Report: The Code recommendations and impact modeling set forth in this Section will be documented in a visually engaging report that includes graphics and maps to convey key findings to a non-technical audience. Additional technical data and information will be included as appendices.

6.0 – Transit-related Code Assessment

6.0 – Standalone Service: The services provided in this Section 6.0 are separate from the services provided in the remainder of the Scope of Services and may be cancelled by the City upon notification to DOWL. In the event of cancellation by the City, the City will not be charged for any costs associated with Section 6.0. The additional allocations of time and staff resources identified in this Section are in addition to the allocations of time and resources identified above.

6.1 – Transit-related Code Assessment Coordination (Time & Materials): DOWL anticipates up to 30 hours of senior planner time devoted to direct coordination with Mountain Line in the form of meetings, phone calls and email correspondence throughout the execution of the scope of work.

6.2 –Approach Memorandum and Barriers Investigation: Prior to beginning this task, DOWL will prepare an

Approach Memo that describes the scope and methodology of the analysis and format of the deliverable(s). This task will include initial interviews with Mountain Line and City staff to better understand current challenges experienced relative to transit facility accommodation in Flagstaff's Zoning Code, Regional Plan, Engineering Standards and TIA process. It is assumed that these meetings/interviews will be virtual. The City and Mountain Line jointly will determine the scope and the format of deliverable, with input from DOWL as requested by the City and/or Mountain Line, and the City, Mountain Line, and DOWL will jointly determine the methodology. DOWL may not commence work until the City and Mountain Line have approved the Approach Memo.

6.3 – Code, Plan and Policy Review: DOWL will review existing Flagstaff and Mountain Line planning documents and policies, including, but not limited to, the City's current Zoning Code, the Regional Plan, Engineering Standards, Transportation Impact Analysis Manual, Transit Guidelines, the Flagstaff in Motion Plan, as well as the current transportation impact analysis ("TIA") process to identify how transit can be better incorporated into each process and the City's Zoning Code and/or Engineering Standards, including TIA standards. DOWL will also research and summarize innovative and effective practices in other jurisdictions related to transit implementation within zoning codes. Practices that are currently implementable under Arizona law will be prioritized, but other impactful best practices may be included.

6.4 – Infrastructure/Operations Cost-Sharing Opportunities: DOWL and GBD will identify opportunities for public-private cost-sharing opportunities based on peer research and best practices. Practices that are currently implementable under Arizona law will be prioritized, but other impactful best practices may be included.

6.5 – Code Recommendations Memorandum: Based on DOWL's discussions with Mountain Line staff and City staff and our review of Code, plan and policies, DOWL will identify potential Code updates that could result in better transit accommodation with development within the City. DOWL will summarize the results of its review and findings in a brief memorandum. This memorandum will also identify the necessary process and steps to implement the Code changes, should the City move forward with the recommendations.

6.6 – Legal Review: DOWL assumes any legal reviews of amendment procedures will be conducted by Mountain Line and the City and is not a part of this scope of work.

7.0 – Reimbursable Expenses

Reimbursable Expenses, when incurred, will be included on the invoices issued to City. Travel expenses are estimated based on the assumption of four staff members making two visits to Flagstaff. Travel expenses will be reimbursed at actual costs, up to the maximum reimbursement amounts allowed by the U.S. General Services Administration for meal and lodging. Travel reimbursement will also be permitted for coach airfare, nonluxury car rental, and mileage at the maximum IRS rate.

Other reimbursable expenses customary to project delivery are included. Customary reimbursable expenses mean the actual expense incurred in direct connection with the project.
The following project related expenses are reimbursed at cost:

- Copy and Reproduction Services
- Express Postage

8.0 – Schedule

Time is of the essence in this Agreement. DOWL and CP will adhere the schedule set forth in Exhibit E, however exceptions in writing can be made by the City Manager upon good cause shown.

EXHIBIT B

PROJECT BUDGET

(Attached)

Exhibit B – Project Budget

	TASK	Lump Sum Budget	T&M Budget
TASK 1	**Meetings, Coordination and Public Outreach**		
1.1	Project Kickoff Meeting	$6,660	
1.2	Project Meetings and Coordination	$28,656	
1.3	Commission / Council Meetings	$20,335	
1.4	Developer and Stakeholder Outreach / Focus Groups (T&M)		$21,830
1.5	Advisory Group Meetings (T&M)		$12,800
1.6	Community Outreach/ Engagement (T&M)		$16,200
1.7	City-Requested Additional Meetings (T&M)		$17,100
	Task Subtotal	**$55,651**	**$67,930**
TASK 2	**Vacant Residential Land and Site Suitability Analysis**		
2.1	Vacant and Partially Vacant Land Analysis	$11,600	
2.2	Suitability Analysis - Policy Recommendations and Framework Matrix	$14,250	
2.3	Infrastructure Gap Analysis	$41,700	
2.4	Regional Development Cost Reduction Strategies	$3,465	
2.5	Suitability Analysis - Evaluation of Site Constraints	$6,630	
2.6	Vacant Residential Land and Site Suitability Report	$26,270	
	Task Subtotal	**$103,915**	
TASK 3	**Development Code Diagnosis**		
3.1	Code Diagnosis Approach Memorandum	$4,172	
3.2	Recent Project Case Studies	$5,943	
3.3	Equity and Displacement Vulnerability Assessment	$21,777	
3.4	Building-related Code Diagnosis	$18,900	
3.5	Engineering Standards Diagnosis	$12,780	
3.6	Physical and Financial Prototype Modeling	$19,026	
3.7	Code Diagnosis Deliberable	$32,380	
	Task Subtotal	**$114,978**	**$0**
TASK 4	**Code Update Concepts**		
4.1	Code Update Concepts Approach Memo	$4,172	
4.2	Best Practices and Literature Review	$7,833	
4.3	Code Update Concepts Deliberable	$18,280	
	Task Subtotal	**$30,285**	**$0**
TASK 5	**Code Recommendations and Impact Report**		
5.1	Code Recommendations and Impact Approach Memorandum	$4,760	
5.2	Code Recommendations	$12,138	
5.3	Code Impact Modeling - Prototypes	$12,810	
5.4	Code Impact Modeling - Citywide Housing Capacity (optional)	$24,255	
5.5	Code Impact Modeling - Equity and Displacement (optional, dependent on task 5.4	$14,238	
5.6	Code Impact Modeling - Sustainability and Carbon Neutrality	$21,357	
5.7	Code Recommendations and Impact Report	$22,136	
	Task Subtotal	**$111,694**	**$0**
TASK 6	**Transit-related Code Assessment**		
6.1	Transit-related Code Assessment Coordination (T&M)		$8,250
6.2	Transit Code Assessment and Recommendations Approach Memorandum	$2,240	
6.3	Literature Review and Best Practices	$11,180	
6.4	Inrastructure and Cost-Sharing Opportunities	$640	
6.5	Code Recommendations Memorandum	$10,230	
6.6	Legal Review	NIC	
	Task Subtotal	**$24,290**	**$8,250**
Task 7	**Reimbursable Expenses**		
	Reimbursable Travel Expenses	$6,000	
	Reimbursable Expenses - Other	$1,000	
	Task Subtotal	**$7,000**	
		Project Lump Sum Total	**Project T&M Total**
		$447,813	**$76,180**
	Project Total (Lump Sum + T&M)	**$523,993**	

Project Staff and Rates for T&M Tasks

Planner X (DOWL)	Planner III (DOWL)	Partner (CP)	Sr Associate (CP)	Associate Principal (GBD)	Associate Principal (GBD)	BCF
R. Stapleton	M Robinson	J Kimmel	P Ruegg or J Michel	E McDaniel	M Raggett	R. Redday
$275	$155	$220	$175	$195	$220	$75

EXHIBIT C

SPECIAL TERMS AND CONDITIONS

(Last Updated June 19, 2023 Specifically for Contract 2023-62)

*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

IN GENERAL

1. **PARTIES:** The City of Flagstaff ("City") and the contractor identified in the Contract ("Contractor") may be referred to individually as "Party" or collectively as "Parties".

2. **NOTICE TO PROCEED:** Contractor shall not commence performance until after the City has issued a Notice to Proceed.

3. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract and provide copies to City upon request.

4. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of the Contract.

5. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, the Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

6. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

7. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

8. **QUALITY:** Contractor warrants that all materials supplied under the Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials and will be safe and appropriate for use as normally used. The City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

9. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

10. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to the City upon the City's acceptance of the materials.

11. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

12. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

13. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

14. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor may not substitute nonconforming materials and/or services. Delivery of nonconforming materials and/or services, or a default of any nature, shall constitute a breach of the Contract as a whole.

15. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

16. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens, other than the security interest held by Contractor, until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

17. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

18. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number and dates when goods had been shipped or work performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

19. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, the City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

20. TAXES: Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of the Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line-item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

21. FEDERAL EXCISE TAXES: The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

22. FUEL CHARGES: Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by the City.

23. DISCOUNTS: If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by the City.

24. AMOUNTS DUE TO THE CITY: Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to the City or fees and charges owed to the City under the Contract.

25. OFAC: No payments may be made to any person in violation of Office of Foreign Assets Control regulations. 31 C.F.R. Part 501.

SERVICES

26. INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

27. CONTROL: Contractor shall be responsible for the control of the work.

28. WORK SITE: Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

29. SAFEGUARDING PROPERTY: Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.

30. QUALITY: All work shall be of good quality and free of defects, performed in a diligent and professional manner.

31. ACCEPTANCE: If the City rejects Contractor's work due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the

deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

32. STANDARD OF CARE: Contractor will perform its Services using that degree of care and skill ordinarily exercised under the same conditions by Design Professionals practicing in the same field, at the same time, and in the same or similar locality. Professional services are not subject to, and Contractor cannot provide any warranty or guarantee, express or implied, including warranties or guarantees contained in any uniform commercial code. Any such warranty or guarantee contained in any purchase order, requisition, or notices to proceed issued by the City are specifically objected to. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract.

INSPECTION, RECORDS, ADMINISTRATION

33. RECORDS: The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five years after completion of the Contract.

34. RIGHT TO INSPECT BUSINESS: The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.

35. PUBLIC RECORDS: The Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law. A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

36. CONTRACT ADMINISTRATION: Contractor will be required to participate in the City's contract administration process. Contractor will be closely monitored for Contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION

37. GENERAL INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense, to the extent caused by negligent acts, errors, or omissions of Contractor, its officers, agents, employees, and subcontractors, in performing or failing to perform the responsibilities identified in the Contract. In the event any such action or claim is brought against the City, Contractor shall, reimburse the City for reasonable defense costs to the proportionate extent of Contractor's actual liability obligation hereunder. This indemnification shall survive termination or expiration of the Contract.

38. INTELLECTUAL PROPERTY INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of the alleged infringement of any patent, trademark or copyright or other proprietary rights of any third-parties arising out of Contract performance or use by the City of materials furnished or work performed under the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense;

and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

39. NETWORK SECURITY AND PRIVACY LIABILITY: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from an against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

40. PRICE INCREASES: Except as expressly provided for in the Contract, no price increases will be approved.

41. COMPLETE AGREEMENT: The Contract is intended to be the complete and final agreement of the Parties.

42. AMENDMENTS: The Contract may be amended by written agreement of the Parties.

43. SEVERABILITY: If any term or provision of the Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted and the remainder of the Contract shall remain in full force and effect.

44. NO WAIVER: Both Parties have the right insist upon strict performance of the Contract, and the prior failure of a Party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

45. ASSIGNMENT: Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. Any assignment without such consent shall be null and void. No assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to the City. The Purchasing Director shall have authority to consent to an

assignment on behalf of the City.

46. BINDING EFFECT: The Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

47. SUBCONTRACTING: Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. The City reserves the right to withhold consent if the subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

48. NONDISCRIMINATION: Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor whose business is located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02, *Civil Rights*, which also prohibits discrimination based on sexual orientation, or gender identity or expression.

49. DRUG FREE WORKPLACE: The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.

50. IMMIGRATION LAWS: Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and federal immigration laws and regulations shall constitute a material breach of the Contract and shall subject Contractor to penalties up to and including termination of the Contract. The City may, at its sole discretion, conduct random verification of the employment records of the employees of the Contractor and any subcontractors to ensure compliance with all state and federal immigration laws and regulations. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contract if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

51. TERMINATION FOR DEFAULT: Prior to terminating the Contract for a material breach, the non-defaulting Party shall give the defaulting Party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting Party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting Party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the Parties may execute all remedies available at law in addition to the

Contract remedies provided for herein.

52. CITY REMEDIES: In the event of Contractor's default, the City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. The City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

53. CONTRACTOR REMEDIES: In the event of the City's default, Contractor may pursue all remedies available at law, except as provided for herein.

54. TERMINATION FOR NONAPPROPRIATION OF FUNDS: The City may terminate all or a portion of the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. TERMINATION FOR CONVENIENCE: Unless expressly provided for otherwise in the Contract, the Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If the Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by the City before the effective date of termination.

56. TERMINATION DUE TO INSOLVENCY: If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate the Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. PAYMENT UPON TERMINATION: Upon termination of the Contract, the City will pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. CANCELLATION FOR GRATUITIES: The City may cancel the Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with award or performance of the Contract.

59. CANCELLATION FOR CONFLICT OF INTEREST: Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. COOPERATIVE PURCHASE CONTRACTS: Presuming that Contractor agreed to such during the procurement process, Contractor will enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell materials

and services to any member of a cooperative group under the same pricing, terms and conditions of the contract awarded to the Contractor by the public procurement unit, following a competitive procurement process.

61. ADVERTISING: Contractor shall not advertise or publish information concerning its Contract with the City without the prior written consent of the City.

62. NOTICES: All notices given pursuant to the Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other Party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four days after being sent; or (c) sent by overnight courier, with receipt deemed effective two days after being sent. Notice may be sent by email as a secondary form of notice.

63. THIRD PARTY BENEFICIARIES: The Contract is intended for the exclusive benefit of the Parties. Nothing herein is intended to create any rights or responsibilities to third parties.

64. GOVERNING LAW: The Contract shall be construed in accordance with the laws of Arizona.

65. FORUM: In the event of litigation relating to the Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

66. ATTORNEYS' FEES: If any action at law or in equity is necessary to enforce the terms of the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

67. FORCE MAJUERE:

a. There may be events that occur during the term of the Contract that are beyond the control of both the City and Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God ("Events"). These Events may result in a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables that are the subject of the Contract.

b. There shall be no claims arising from a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables caused by the Events and the City shall not pay additional costs incurred by Contractor as a result of such Events.

c. The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and that the extension will be in an amount of time equal to any temporary delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

68. NO BOYCOTT OF ISRAEL: Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents ($100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

69. CHANGES TO CONTRACT: The Contract shall not be modified within the first year after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other proposers/bidders; or (b) requests for changes may delay commencement of performance.

70. FORCED LABOR OF ETHNIC UYGHURS: If Contractor engages in for-profit activity and has ten (10) or more employees, pursuant to A.R.S. §35-394, the Contractor certifies that it does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If the Contractor becomes aware during the term of the contract that the company is not in compliance with the written certification, the Contractor shall notify the City within five (5) business days after becoming aware of the noncompliance. If the Contractor does not provide the City with a written certification that the Contractor has remedied the noncompliance within 180 days after notifying the City of the noncompliance, this Contract terminates, except that if the contract termination date occurs before the end of the remedy period the Contract terminations on the Contract termination date.

EXHIBIT D

SPECIAL INSURANCE REQUIREMENTS

(Last Updated June 19, 2023 Specifically for Contract 2023-62)

*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

1. IN GENERAL: Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with the Contract by Contractor, its agents, representatives, employees, and/or subcontractors.

2. REQUIREMENT TO PROCURE AND MAINTAIN: Each insurance policy required by the Contract shall be in effect at, or before, commencement of work under the Contract and shall remain in effect until all of Contractor's obligations under the Contract have been met, including any warranty periods. Contractor's failure to maintain the insurance policies as required by the Contract, or to provide timely evidence of renewal, will be considered a material breach of the Contract.

3. MINIMUM SCOPE AND LIMITS OF INSURANCE: The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Where applicable, as related to the Scope of Work, Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	$2,000,000
Products/Completed Operations	$1,000,000
Each Occurrence	$1,000,000

b. Umbrella Coverage $2,000,000

c. Automobile Liability

Any Automobile or Owned, Hired, and Non-owned Vehicles Combined Single Limit Per Accident for Bodily Injury & Property Damage	$1,000,000

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	$1,000,000
Disease - Each Employee	$1,000,000
Disease - Policy Limit	$1,000,000

e. Professional Liability $2,000,000

f. Network Security and Privacy Liability

Per claim	$2,000,000
Annual Aggregate	$2,000,000

4. NETWORK SECURITY AND PRIVACY LIABILITY: Contractor shall maintain the requisite insurance requirements covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. The insurance policy shall include coverage for third-party claims. The insurance policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.

5. SELF-INSURED RETENTION: Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that Contractor reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and/or subcontractors. Contractor shall be solely responsible for any self-insured retention amounts. The City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

6. OTHER INSURANCE REQUIREMENTS: The insurance policies shall contain, or be endorsed to contain, the following provisions:

a. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.

b. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.

c. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.

d. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.

f. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

7. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of the Contract shall provide the required coverage and shall not be suspended, voided, cancelled, and/or reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Procurement Agent and shall reference the Contract Number.

8. ACCEPTABILITY OF INSURERS: Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: V. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

9. CERTIFICATES OF INSURANCE: Contractor shall furnish the City with certificates of insurance (ACORD form) as required by the Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City Contract number shall be noted on the certificates of insurance. If requested by the City, all certificates of insurance and endorsements must be received and approved by the City before the Contractor commences work.

10. POLICIES: The City reserves the right to require, and receive within ten (10) days, complete, certificates of insurance and endorsements required by the Contract. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's certificate of insurance or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under the Contract.

11. MODIFICATIONS: Any modification or variation from the insurance requirements in the Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

EXHIBIT E

PERFORMANCE SCHEDULE

(Attached)

Performance Schedule

6/29/2023

	2023		2024			
Notice to Proceed--->	Q3	Q4	Q1	Q2	Q3	Q4
Task 1.0 Project Meetings and Coordination						
1.1 Kickoff Meeting						
1.2 Project Meetings and Coordination						
1.3 Commission Council Meetings						
1.4 Developer and Stakeholder Outreach						
1.5 Optional Project Team Meetings						
1.6 Committee Meetings / Community Engagement						
Task 2.0 – Land Availability / Site Suitability Analysis						
2.1 Vacant and Partially Vacant Land Analysis						
2.2 Suitability Analysis - Policy Recommendations Matrix						
2.3 Infrastructure Gap Analysis						
2.4 Regional Development Cost Reduction Strategies						
2.5 Suitability Analysis - Evaluation of Site Constraints						
2.6 Vacant Residential Land and Site Suitability Report						
Task 3.0 – Development Code Diagnosis						
3.1 – Code Diagnosis Approach Memorandum						
3.2 – Recent Project Case Studies						
3.3 – Equity and Displacement Vulnerability Assessment						
3.4 – Building-related Code Diagnosis						
3.5 – Engineering Standards Diagnosis						
3.6 - Physical and Financial Prototype Modeling						
3.7 – Code Diagnosis Deliverable						
Task 4.0 – Code Update Concepts						
4.1 – Code Update Concepts Approach Memorandum						
4.2 – Best Practices and Literature Review						
4.3 – Staff Brainstorm Meetings						
4.4 – Code Update Concepts Deliverable						
Task 5.0 – Code Recommendations and Impact Report						
5.1 – Code Recommendations and Impacts Approach Memorandum						
5.2 – Code Recommendations						
5.3 – Code Impact Modeling - Prototypes						

DOWL

Performance Schedule

5.4 – Code Impact Modeling – Citywide Housing Capacity						
5.5 – Code Impact Modeling – Equity and Displacement						
5.6 – Code Impact Modeling – Sustainability and Carbon Neutrality						
5.7 – Code Recommendations and Impacts Report						
Task 6.0 - Transit-related Code Assessment						
6.1 – Transit Related Code Assessment Coordination						
6.2 – Approach Memorandum and Barriers Investigation						
6.3 – Code, Plan and Policy Review						
6.4 – Infrastructure/Operations Cost Sharing Opportunities						
6.5 – Code Recommendations Memorandum						

Agenda Item 10.I

Land Availability and Suitability Study and Development Code and Process Analysis

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

Project Introduction

This is a multi-pronged initiative to address critical long-term planning and resiliency needs:

- Partnership between Planning, Housing and Sustainability
- Provides much-needed base for high-level coordination between numerous City Divisions/Sections
  - Engineering (Development Engineering and Transportation), Fire, Building Safety, Economic Vitality, Water Services, Mountain Line) and others

Project Introduction

The project will conduct an in-depth analysis of:

1. What land is available in Flagstaff and what is development potential and barriers
2. In-depth development code and process analysis through the lens of City Council commitments to address Housing and Climate
3. Analysis what's working and what is not

**This analysis will test theory against approved projects.*

Coordination and Public Outreach

Project Meetings and Coordination



Public Outreach

- Focus Groups
  - Developers
  - Design Community
  - Other Interested Groups
- Advisory Committee Meetings
  - Housing Commission
  - Transportation Commission
  - Sustainability Commission
  - Others as appropriate
- Planning & Zoning Commission and City Council

Scope of Project

1. Land Availability and Suitability Analysis (LASS)
2. Code and Process Analysis

1. LASS

Why Doing?

- Limited land left to develop and many needs
- Provides context for recommending “right-sized” code amendments

Scope Overview

- Land Inventory and Analysis
  - Identify approximately 50 Opportunity Sites
- Suitability Analysis
  - Evaluation of Site Constraints
  - Infrastructure Gap Analysis
  - Regional Cost Reduction Strategies
- Vacant Residential Land Report

2. Code and Process Analysis

Codes to Be Evaluated

- Fire Code
- Engineering design standards and Specification for new infrastructure
- Zoning Code
- General Plans and Subdivision
- Public Ways and Property
- Building Regulations
- Transportation Impact Analysis Manual
- Incentive Policy for Affordable Housing
- Other identified affected codes, standards, policies and plans

Process Analysis

- Development Review
  - Inter-Division Staff (IDS)
- Planning reviews
  - Concept plans, site plans, conditional use permit, and zoning map amendments
- Other processes as identified

Deliverables



Public Outreach Plan



Vacant Residential Land and Site Suitability Report



Code Diagnosis



Code Recommendations and Impact Report

Schedule

Performance Schedule

6/29/2023

	2023		2024			
Notice to Proceed--->	Q3	Q4	Q1	Q2	Q3	Q4
Task 1.0 Project Meetings and Coordination						
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3.1 – Code Diagnosis Approach Memorandum						
3.2 – Recent Project Case Studies						
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5.2 – Code Recommendations						
5.3 – Code Impact Modeling - Prototypes						

Performance Schedule

6/29/2023

5.4 – Code Impact Modeling – Citywide Housing Capacity						
5.5 – Code Impact Modeling – Equity and Displacement						
5.6 – Code Impact Modeling – Sustainability and Carbon Neutrality						
5.7 – Code Recommendations and Impacts Report						
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6.2 – Approach Memorandum and Barriers Investigation						
6.3 – Code, Plan and Policy Review						
6.4 – Infrastructure/Operations Cost Sharing Opportunities						
6.5 – Code Recommendations Memorandum						

Then What?

- Inform (and be informed) by the Regional Plan Update
- Staff will develop work program based on prioritized recommended code changes
- Staff will draft recommended code changes and conduct community outreach on those changes
- Staff will draft updated development review processes as recommended (vetted with stakeholders)

What are We Doing in the Interim?

Evaluating opportunities to complement the Code and Process Analysis

- Routine updates
  - Building Code is scheduled to be updated in 2024
  - Other minor code updates as applicable
- Engineering Standard
  - Level of Service
  - Vehicle Miles Traveled Calculator
- Regional Transportation Safety Plan/Vision Zero

Discussion & Questions

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Nicole Antonopoulos
Sustainability Director
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Sarah Darr
Housing Director
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Project Background

Declared Emergency

- Climate Emergency declared by City Council June 23, 2020
  - Residents asked the City to move more quickly than outlined in the 2018 Climate Action and Adaptation Plan
  - Flagstaff Carbon Neutrality Plan adopted June 2021

Carbon Neutrality Plan

- 3 Core Climate Goals:
  - Goal One: Achieve carbon neutrality by 2030 through a combination of dramatic emissions reductions and significant investments in carbon dioxide removal
  - Goal Two: Prepare Flagstaff's communities, systems, and resources to be more resilient to climate change impacts
  - Goal Three: Address climate change in a manner that prioritizes those most impacted and ensures the costs and benefits of climate adaptation and mitigation are equitably distributed

Project Background

The “Big Shift”

- Integrating climate-focused strategy into all codes, regulations, and processes
- Rethinking our land use and transportation systems to prioritize walking, biking, and transit
- Changing the way the City plans infrastructure and works with developers
- Reconsidering land availability and density in existing and new neighborhoods

Project Background

Declared Emergency

- Housing Emergency declared by City Council December 1, 2020
  - Council committed to prioritizing affordable housing within City operations to create safe, decent, and affordable hosing opportunities for all community members
  - A 10-year Housing Plan was developed to address the housing crisis by summarizing the City's immediate and long-term needs and strategies for improving housing affordability

Flagstaff's 10-Year Housing Plan

- Code and Process focused policies
  - Create 1: Incentivize the creation of affordable units through various programs and mechanisms
  - Create 4: Amend the Flagstaff Zoning Code to facilitate the development of all housing types
  - Create 5: Explore regulatory efficiency and cost-saving practices
  - Preserve 1: Encourage the adaptive reuse of buildings
  - Protect 2: Ensure affordable housing is a part of every Flagstaff neighborhood and work to address disparate impact as part of any development or redevelopment

Project Background

Flagstaff Regional Plan 2030

Goals Supporting this Project:

- Goal E&C.2. Achieve carbon neutrality for the Flagstaff community by 2030
- Goal E&C.3. Prepare Flagstaff's community systems and resources to be more resilient to climate change impacts, and address climate change in a manner that prioritizes those most impacted and ensures the costs and benefits of climate adaptation and mitigation are equitably distributed
- Goal E&C.4. Integrate available science into policies governing the use and conservation of Flagstaff's natural resources
- Goal LU.4. Balance housing and employment land uses with the preservation and protection of our unique natural and cultural setting
- Goal LU.6. Provide for a mix of land uses
- Goal LU.10. Increase the proportion of urban neighborhoods to achieve walkable, compact growth
- Goal NH.3. Make available a variety of housing types at different price points, to provide housing opportunity for all economic sectors

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Rick Tadder, Management Services Director

Date: 06/27/2023

Meeting Date: 07/03/2023

TITLE:

Consideration and Adoption of Resolution No. 2023-40: A resolution of the Flagstaff City Council, designating its Chief Fiscal Officer for officially submitting the fiscal year 2023-2024 expenditure limitation report to the Arizona Auditor General, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2023-40 by title only
2) City Clerk reads Resolution No. 2023-40 by title only (if approved above)
3) Adopt Resolution No. 2023-40

Executive Summary:

Staff is requesting Council adoption of this resolution to formally designate a Chief Fiscal Officer, per Arizona Revised Statutes, Section 41-1279.07(E). The City is required to annually designate a Chief Fiscal Officer for the City for expenditure limitation reporting.

Financial Impact:

There is no fiscal impact related to adopting this resolution.

Policy Impact:

There is no policy impact related to adopting this resolution. It is intended to follow state statute requirements.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

None.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

1. Approve the Resolution as submitted.
2. Amend the Resolution and designate a different city staff member as the Chief Fiscal Officer

Background/History:

Per Arizona Revised Statutes, Section 41-1279.07(E), the City is required to designate a Chief Fiscal Officer annually for expenditure limitation reporting, as follows: "The governing body of each political subdivision shall provide to the auditor general by July 31 each year the name of the chief fiscal officer designated by the governing body of the political subdivision to officially submit the current fiscal year's expenditure limitation report on behalf of the governing body. The governing body of the political subdivision shall notify the auditor general of any changes of individuals designated to file the required reports. The designated chief fiscal officer shall certify to the accuracy of the annual expenditure limitation report."

The Flagstaff City Charter Article IV, Section 3 provides for the appointment of a City Treasurer with approval of the Council. The City Treasurer "shall receive and have custody of all the money of the City" and manage it in compliance with applicable laws and ordinances.

The City Treasurer's responsibilities encompass those duties required of a Chief Fiscal Officer, per the law stated above.

On September 15, 2015, Rick Tadder was appointed the City Treasurer by Resolution No. 2015-32.

Therefore, designating Rick Tadder as the Chief Fiscal Officer is appropriate.

Attachments: Res. 2023-40

RESOLUTION NO. 2023-40

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, DESIGNATING THE CHIEF FISCAL OFFICER FOR OFFICIALLY SUBMITTING THE FISCAL YEAR 2023-2024 EXPENDITURE LIMITATION REPORT TO THE ARIZONA AUDITOR GENERAL, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, A.R.S. § 41-1279.07(E) requires each county, city, town, and community college district to annually provide to the Auditor General by July 31 the name of the Chief Fiscal Officer the governing body designated to officially submit the current year's Annual Expenditure Limitation Report (AELR) on the governing body's behalf; and

WHEREAS, the City of Flagstaff Mayor and Council desire to designate its City Treasurer, Rick Tadder, as the City's Chief Fiscal Officer; and

WHEREAS, entities must submit an updated form and documentation for any changes in the individuals designated to file the AELR.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

Rick Tadder is hereby designated as the City's Chief Fiscal Officer for purposes of submitting the fiscal year 2023-2024 Annual Expenditure Limitation Report to the Arizona Auditor General's Office on the governing body's behalf.

SECTION 2. Effective Date.

This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

11. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacey Brechler-Knaggs, Grants, Contracts & Emergency Management Director
Co-Submitter:	Daniel Kelly, Emergency Manager
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Resolution No. 2023-27: A resolution approving the designation of an applicant agent and authorizing the agent to apply for and sign on behalf of the City of Flagstaff for the receipt of funds from the Arizona Department of Emergency Management and Military Affairs Assistance Programs.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2023-27 by title only
2) City Clerk reads Resolution No. 2023-27 by title only (if approved above)
3) Adopt Resolution No. 2023-27

Executive Summary:

Designate Applicant Agent for the Arizona Department of Emergency Management and Military Affairs Public and Individual Assistance Program.

- Designate Stacey Brechler-Knaggs, Grants, Contracts & Emergency Management Director as the Applicant Agent
- Designate Daniel Kelly, Emergency Manager as the Alternate Applicant Agent

Financial Impact:

When a disaster occurs, the City of Flagstaff is to respond, recover from the impact, and mitigate future damages. The Federal Emergency Management Administration (FEMA) and the Arizona Division of Emergency Management and Military Affairs (ADEMA) provide recovery funding through its Public Assistance Program. The program provides assistance for Debris Removal, Emergency Protective Measures, Roads and Bridges, Water Control Facilities, Buildings and Equipment, Utilities, and Parks, Recreational Facilities and Other Items.

The Public Assistance Program provides for a Federal declaration, 75% Federal Share, 15% State Share, and 10% City Share and for a State declaration, 75% State Share and 25% City Share.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance - Enhance the organization's fiscal stability & increase efficiency & effectiveness.

Safe & Healthy Community - Provide public safety services with resources, staff & training responsive to the community's needs.

Regional Plan

Public Safety - Goal PF.3. Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport service.

Has There Been Previous Council Decision on This:

Yes, on November 2, 2021

Options and Alternatives:

- Approve the Designated Applicant Agent(s).
- Ammend Designated Applicant Agent(s) and approve.
- Do not Approve the Designated Applicant Agent(s) which will risk emergency funding.

Background/History:

The Public Assistance Program provides support to state agencies and political subdivisions of the State in repairing damaged public infrastructure when recovering from any State-declared disaster. The Governor may proclaim a state of emergency after a political subdivision(s) has passed a resolution stating that an emergency exists within their jurisdiction(s) AND have been able to demonstrate that the incident is above and beyond their capability to recover from without assistance from the State. Through a proclamation, the Governor may provide Public Assistance to the affected Political Subdivision(s) of the state (counties, cities, towns, state agencies). Public Assistance is provided through the Governor’s Emergency Fund which is allocated $4 million dollars annually to cover the costs of emergencies and disasters. Emergency Management's Grant Administration administers this fund. When a disaster is beyond the capability of the State and local governments, the Governor will request federal assistance from FEMA through the President of the United States. The recovery process for a single event is not complete until all work has been completed, inspected, documentation audited and final payment disbursed. Once the recovery process for a single event is complete the declared disaster is terminated.

Key Considerations:

The City of Flagstaff is legally responsible for the performance of emergency services and for the repair of damaged public infrastructure during and following a disaster.

Community Benefits and Considerations:

The Public and Individual Assistance Program provides much-needed financial assistance following a disaster to help restore a sense of normalcy to our community.

Community Involvement:

This action is required by the Arizona Department of Emergency Management and Military Affairs.

Attachments: Res. 2023-27

RESOLUTION NO. 2023-27

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING THE DESIGNATION OF AN APPLICANT'S AUTHORIZED REPRESENTATIVE AND ALTERNATE AUTHORIZED REPRESENTATIVE FORMS SUBMISSION TO THE ARIZONA DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS

RECITALS:

WHEREAS, the Arizona Department of Emergency and Military Affairs requires the City of Flagstaff to designate a applicant agent and an alternate applicant agent for the Assistance Programs; and

WHEREAS, the Assistance Programs provides support to state agencies and political subdivisions of the State in repairing damaged public infrastructure when recovering from any Federal or State declared disaster; and

WHEREAS, the City of Flagstaff is legally responsible for the performance of emergency services and for the repair of damaged public infrastructure during and following a disaster.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The Designation of Authorized Representative's from to the Arizona Department of Emergency and Military Affairs, which designates Stacey Brechler-Knaggs, Grants, Contracts & Emergency Management Director and Daniel Kelly, Emergency Manager of the City of Flagstaff, as Authorized Representative and Alternate Authorized Representative, respectively, to execute applications on behalf of the City of Flagstaff for the purpose of obtaining financial assistance under the Disaster Relief Act, is hereby approved in the form attached hereto.

SECTON 2. Stacey Brechler-Knaggs, the Grants, Contracts & Emergency Management Director and Daniel Kelly, the Emergency Manager are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

SECTION 3. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of June, 2023.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

11. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Patrick Brown, Purchasing Director
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Resolution No. 2023-42: A resolution of the City Council of the City of Flagstaff, Arizona amending the Procurement Code Manual, Articles 1 through 7, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2023-42 by title only
2. City Clerk reads Resolution No. 2023-42 by title only (if approved above)
3. Adopt Resolution No. 2023-42

Executive Summary:

This Resolution is to amend the City's Procurement Code Manual Articles 1 through 7. Staff has reviewed these articles to improve clarity, understanding, use of and increase informal procurement thresholds that fall under the City Charter established formal procurement threshold. The updated informal thresholds includes City Manager reservation of right to bring any informal procurements to council as well as require Purchasing staff to formally solicit.

Financial Impact:

None

Policy Impact:

Per City Code, Chapter 1, Section 20-001-0004, a Resolution is required to adopt changes to the Procurement Code Manual.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance
Enhance the organization's fiscal stability and increase efficiency and effectiveness

Has There Been Previous Council Decision on This:

City Council reviewed and provided input to the proposed amendment revisions at the June 27, 2023 Work Session Council Meeting.

Options and Alternatives:

- Adopt the changes proposed in the Resolution
- Provide amendments and adopt the Resolution
- Do not adopt the resolution and provide direction to staff

Background/History:

The City has a formal and comprehensive Procurement Code Manual which was originally adopted by City Council under Resolution No. 2013-19 on July 16, 2013. Any and all amendments are required to be adopted by Resolution per City Code, Chapter 1, Section 20-001-0004. The Procurement Code Manual was amended June 2015, May 2018 and April 2019.

The purpose for the Procurement Code Manual is to provide fundamental principles, practices and guidelines for how the City Procurement process works. The objectives of the Procurement Code Manual are to outline various procedures in order to provide and preserve a high standard of integrity and transparency with the City's procurement process and demonstrate leadership in the stewardship of taxpayer dollars involving the procurement of materials, services and construction. The Procurement Code Manual is in accordance with the Flagstaff City Charter and applicable law.

The City Procurement Code Manual consists of 31 Articles. Staff is prepared to discuss amendments to Articles 1-7 for adoption. Staff will continue to look at future revisions to other Articles within the Procurement Code Manual. The next focus will be to review our Procurement Code Manual with an emphasis on the Council declared emergencies of Climate and Housing and how our manual can further the City's commitment while managing within state laws for procurement.

Attachments: Res. 2023-42
Procurement Code Manual - Amendments

RESOLUTION NO. 2023-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF AMENDING THE *PROCUREMENT CODE MANUAL*, ARTICLES 1 – 7, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff has adopted a process for the procurement of goods, services, and construction and disposal of surplus personal property as set forth in the Procurement Code Manual; and

WHEREAS, Article 1 of the Procurement Code Manual identifies the Purpose; Director Authority and Duties; Delegation; and

WHEREAS, Article 2 of the Procurement Code Manual identifies the Applicability of the provisions; and

WHEREAS, Article 3 of the Procurement Code Manual recognizes that the provisions are Supplementary and do not supersede the Charter of the City of Flagstaff; and

WHEREAS, Article 4 of the Procurement Code Manual provides certain Definitions utilized in the procurement of goods and services; and

WHEREAS, Article 5 of the Procurement Code Manual identifies what constitutes an Unauthorized Purchase; and

WHEREAS, Article 6 of the Procurement Code Manual provides the authority for the Purchasing Section to make certain Determinations; and

WHEREAS, Article 7 of the Procurement Code Manual defines the Informal and Formal Procurement Limits and a Quote File; and

WHEREAS, on July 16, 2013 the City Council adopted a Procurement Code Manual; and

WHEREAS, on June 2, 2015 the City Council adopted Resolution No. 2015-24 amending the Procurement Code Manual; and

WHEREAS, on May 1, 2018 the City Council adopted Resolution No. 2018-11 amending the Procurement Code Manual; and

WHEREAS, on April 16, 2019 the City Council adopted Resolution No. 2019-03 amending the Procurement Code Manual; and

WHEREAS, the Purchasing Section has prepared and proposes that the Council adopt a newly revised and updated Procurement Code Manual; and

WHEREAS, pursuant to the Flagstaff City Code, Chapter 1, Section 20-001-0004, a resolution is required to adopt changes to the Procurement Code Manual; and

WHEREAS, having read and considered the Staff Summary Report submitted in support of this Resolution, the Council finds that adoption of the new July 2023 Procurement Code Manual by resolution is in the best interests of the citizens of the City of Flagstaff.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The *July 2023 Procurement Code Manual* attached hereto and hereby incorporated herein is hereby adopted.

SECTION 2. The Management Services Division and the City Clerk are authorized and directed to edit and correct clerical errors or typographical and/or grammatical errors of wording and punctuation.

SECTION 3. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – July 2023 Procurement Code Manual



PROCUREMENT CODE MANUAL

CITY OF FLAGSTAFF
PURCHASING SECTION

CITY OF FLAGSTAFF
211 W. ASPEN AVE.
FLAGSTAFF, ARIZONA 86001

Council Approved and Adopted
July 16, 2013

Council Approved Revisions:	***June 2, 2015***	***Resolution No. 2015-24***
	May 1, 2018	***Resolution No. 2018-11***
	April 16, 2019	***Resolution No. 2019-03***
	JULY 3, 2023	***RESOLUTION NO. 2023-42***

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ARTICLE 1 PURPOSE; DIRECTOR AUTHORITY AND DUTIES; DELEGATION

A. Purpose.

The City operates as a centralized Purchasing Section under the supervision of a Purchasing Director ("Director"), which shall have for its purpose the purchase of materials, services, LEASES, and construction SERVICES for the City and shall:

1. Establish efficient procurement, inventory and disposition of surplus personal property procedures;

2. Purchase all materials, services, and construction for the City at the lowest possible cost commensurate with quality needed;

3. Exercise positive financial control over purchases;

4. Clearly define authority for the purchasing function and the City's Purchasing Code of Ethics;

5. Assure the quality of purchases; and

6. Provide procurement assistance to all City Departments and Divisions;

B. Director Authority and Duties.

The Director shall:

1. Except as otherwise provided in this Procurement Code Manual, the Director shall establish rules consistent with this Procurement Code Manual, governing the procurement of all materials, services and construction to be procured by the City. Rules and procedures for the procurement of construction and professional design services, shall also be consistent with Arizona Revised Statutes, (A.R.S.) Title 34, Public Buildings and Improvements.

2. Except as otherwise provided in this Procurement Code Manual, procure all materials, services, LEASES, and construction SERVICES required by any Department or Division of the City in accordance with the provisions of this Procurement Code Manual and such procurement rules as may be established pursuant to this Procurement Code Manual.

3. Establish rules and procedures for the management of inventories of material and surplus personal property belonging to the City.

4. Sell, trade or otherwise dispose of surplus personal property belonging to the City in compliance with requirements of the City Charter.

5. Establish and maintain programs for the inspection, testing and acceptance of materials, services and construction.

6. Discourage collusive and restrictive bidding and endeavor to obtain as fair and open competition as possible on all purchases.

7. Prepare and recommend to the City Council revisions and amendments to this Procurement Code Manual.

8. Keep informed of current developments in the field of purchasing, prices, market conditions and new products.

9. Prescribe and maintain such procedures as necessary for the operation of the centralized procurement function.

10. Maintain a Bidder's list, material, service and construction references and all records needed for the efficient operations of the centralized purchasing function.

C. Delegation of Authority.

The Director hereby delegates PROCUREMENT ~~the~~ powers and duties ~~of the Director~~ authorized by this Procurement Code Manual to ~~the Purchasing Section Staff~~ HIS/HER STAFF, TO INCLUDE, THE PURCHASING MANAGER, SENIOR PROCUREMENT SPECIALIST, PROCUREMENT SPECIALIST, OR BUYERS.

ARTICLE 2 APPLICABILITY

A. The provisions of this Procurement Code Manual apply only to procurements initiated after its effective date. The City Attorney's office, in consultation with the Director, shall interpret the provisions the provisions of this PROCUREMENT ~~c~~Code MANUAL in the event of any ambiguity.

B. The provisions of this Procurement Code Manual are applicable to every purchase of materials, services, LEASES, and construction SERVICES with public monies, including federal grants, and federal assistance monies except as otherwise provided in this section. Nothing in this Procurement Code Manual shall supersede the Flagstaff City Charter, or the terms and conditions of any grant, gift or bequest accepted by the City Council. If the procurement involves the expenditure of grants, STATE OR federal assistance or contract monies or is subject to state law, the ~~d~~Director shall comply with STATE AND federal ~~and state~~ law and authorized regulations which are mandatorily applicable and which may not be reflected in this Procurement Code Manual.

C. Contracts for construction, as defined in Article 12, and contracts for the services of architects or engineers to be used in connection with construction contracts shall be governed by the provisions of A.R.S. Title 34, Public Buildings and Improvements. Procedures and other provisions of this Procurement Code Manual, and rules established pursuant thereto, shall apply to such contracts only to the extent such Procurement Code Manual provisions, procedures and rules are not inconsistent with A.R.S. Title 34, Public Buildings and Improvements.

D. Professional services, such as appraisals, title searches/reports and policies, used in support of Real Property Transactions, are subject to all applicable Sections of this Procurement Code Manual.

E. The following contracts are not subject to this Procurement Code Manual:

1. Intergovernmental agreements;

2. Agreements negotiated by the Risk Management Manager or the City Attorney for the settlement of litigation or threatened litigation,~~;~~ and CONTRACTS ENTERED INTO ON BEHALF OF THE CITY ATTORNEY RELATED TO ~~for the settlement of litigation or threatened~~ litigation INVOLVING THE CITY OF FLAGSTAFF; and

3. Easement Agreements or Right of Entry Agreements.

ARTICLE 3 SUPPLEMENTARY GENERAL PRINCIPLES OF LAW

Nothing in this Procurement Code Manual shall supersede Article VIII, "Contracts", Sections 1 through 10, of the Flagstaff City Charter.

ARTICLE 4 DEFINITIONS

The words defined in this ~~s~~Section shall have the meanings set forth below whenever they appear in this Procurement Code Manual, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular provision.

Addendum means any formal notification of any revision to pertinent information contained in either an informal or formal solicitation.

Advantageous means in the best interests of the City.

Affiliate means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It may also include persons doing business under a variety of names, or where there is a parent-subsidiary relationship between persons.

Alternative Project Delivery Methods means construction related projects that utilize Construction-Manager-At-Risk, Design-Build or Job-Order-Contracting, instead of the traditional Design-Bid-Build method of construction project delivery.

Authorized Purchase means any purchase that has been requisitioned OR SOLICITED and that has gone through the appropriate approval processes.

Best and Final Offer means a formal process, conducted by the Purchasing Agent as the last phase of a Request for Proposals process after formal discussions and/or Proposer presentations are conducted.

Best Interests of the City means advantageous to the City.

BID MEANS AN OFFER IN RESPONSE TO A SOLICITATION.

BIDDER MEANS AN "OFFEROR" AS DEFINED IN THE PROCUREMENT CODE MANUAL.

Brand Name SPECIFICATION or Approved Alternate Specification means a specification that uses one (1) or more manufacturers' names or catalogue numbers to describe the standard of

quality, performance, and other characteristics needed to meet City requirements, and that provides for the submission of equivalent products.

~~***Brand Name Specification*** means a specification limited to one (1) or more items by manufacturers' name or catalogue numbers.~~

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or other private legal entity.

Capital Improvements means construction related projects involving the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property.

Change Order means a written order, AUTHORIZED BY A CONTRACT, approved by the City's Change Order Committee and signed by an authorized agent of the City, which directs the contractor or the City, to make ALTERNATIONS TO THE ~~changes that are authorized by the change order clause of the~~ original contract.

COMPETITION IMPRACTICABLE MEANS THE PROCUREMENT OF A MATERIAL OR SERVICE WHERE THERE IS AN UNUSUAL OR UNIQUE SITUATION THAT MAKES COMPLIANCE WITH THE PROCUREMENT CODE MANUAL IMPRACTICABLE, UNNECESSARY, OR CONTRARY TO PUBLIC INTEREST, BUT WHICH WOULD NOT JUSTIFY AN EMERGENCY PROCUREMENT DEFINED BY THE PROCUREMENT CODE MANUAL.

Construction means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings or real property.

Construction Manager means a person who provides management and/or technical services required to implement a capital project pursuant to the project guidelines.

Construction-Manager-At-Risk (CMAR) means a project delivery method in which:

A. There is a separate contract for design services and a separate contract for construction services.

B. The contract for construction services may be entered into at the same time as the contract for design or at a later time.

C. Design and construction of the project may be in sequential phases or concurrent phases.

D. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

Contract means all types of City agreements~~, regardless of what they may be called,~~ for the procurement of materials, services, LEASES, or construction SERVICES or the disposition of personal property.

Contract AMENDMENT/Modification means any FORMAL WRITTEN DOCUMENT THAT ALTERS THE CONTENT OF AN EXECUTED CONTRACT BY MUTUAL AGREEMENT OF THE PARTIES. ~~written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.~~

Contractor means any person who has a contract with the City.

COOPERATIVE PURCHASE CONTRACT MEANS A CONTRACT ENTERED INTO BY THE CITY TO PROVIDE MATERIALS, SERVICES, PROFESSIONAL SERVICES, EQUIPMENT LEASES, OR CONSTRUCTION SERVICES WHERE ANOTHER PUBLIC PROCUREMENT UNIT HAS PARTICIPATED IN, SPONSORED, CONDUCTED OR ADMINISTERED A COMPETITIVE AND OPEN PUBLIC PROCUREMENT PROCESS. TO RECEIVE THE BENEFITS, THE CONTRACT BETWEEN THE SEPARATE PUBLIC PROCUREMENT UNIT AND THE CONTRACTOR PROVIDING THE MATERIALS, SERVICES, PROFESSIONAL SERVICES, CONSTRUCTION, OR CONSTRUCTION SERVICES MUST CONTAIN PROVISIONS AUTHORIZING A COOPERATIVE PURCHASE BY ANOTHER ENTITY.

Cost Data means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.

Data means documented information, regardless of form or characteristic.

Days mean calendar days unless otherwise specified.

Debarment means an action taken by the director, under the provisions of this Procurement Code Manual, to prohibit a person from participating in City procurements for three (3) years.

Department/Division means an organizational work unit as defined by the City of Flagstaff Organization Chart.

Designee means a duly authorized representative of a person holding a superior position.

Design-Build **(DB)** means a project delivery method in which:

A. There is a single contract for design services and construction services.

B. Design and construction of the project may be in sequential phases or concurrent phases.

C. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

Design-Bid-Build **(DBB)** means a project delivery method in which:

A. There is a sequential award of two separate contracts.

B. The first contract is for design services.

C. The second contract is for construction.

D. Design and construction of the project are in sequential phases.

E. Finance services, maintenance services and operations services are not included.

Director means the Director of the Purchasing Section or designee.

ELECTRONIC TRANSACTION MEANS A TRANSACTION AUTHORIZED BY THIS PROCUREMENT CODE MANUAL INVOLVING AN ELECTRONIC RECORD AND/OR ELECTRONIC SIGNATURE.

EMERGENCY PURCHASE MEANS A MATERIAL OR SERVICE PROCURED WHERE THERE IS AN IMMEDIATE AND SERIOUS NEED IN WHICH THE CITY'S BEST INTERESTS WILL NOT BE MET THROUGH THE USE OF OTHER SOLICITATION METHODS. THE NEED MUST MEET A CONDITION DESCRIBED IN THIS PROCUREMENT CODE MANUAL AND FOLLOW THE DEFINED PROCEDURE.

Employee means an individual drawing a salary through the payroll process of the City whether elected or not.

End User means any City employee who HAS REQUESTED ~~will actually be using~~ the material or service AT ISSUE. ~~being requested~~

***Field* Order** means a paperless purchase order number given out by the Purchasing Section for immediate, necessary, purchases, under one thousand dollars ($1,000), by City staff who are in need of various materials NEEDED to repair fixtures or equipment.

GRANT MEANS THE PROVIDING OF FINANCIAL OR OTHER ASSISTANCE, INCLUDING, BUT NOT LIMITED TO, STATE, FEDERAL, FOUNDATION OR PRIVATE GRANT FUNDS TO THE CITY.

Interested Party means an actual or prospective Bidder or Proposer whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective Bidder or Proposer has an economic interest will depend upon the circumstances of each case.

Invitation for Bids (IFB) means A FORMAL SOLICITATION CONTAINING A DESCRIPTION OF THE MATERIAL OR SERVICES NEEDED WHERE THE CONTRACT IS AWARDED TO THE BIDDER WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BID AS DEFINED BY THE Procurement Code Manual. ~~all documents, whether attached or incorporated by reference, which are used for soliciting formal bids in accordance with the procedures prescribed in this.~~

Invitation To Submit Technical Offers means all documents~~, whether attached or incorporated by reference, which are used for soliciting~~ ISSUED TO THE PUBLIC FOR THE SOLE PURPOSE OF SEEKING INFORMATION ABOUT THE AVAILABILITY IN THE COMMERCIAL MARKETPLACE OF ~~unpriced technical offers to assist in the evaluation of market place~~ technology to determine what specific technology would be considered to be the most advantageous to the City to be specified USED in a subsequent competitive solicitation. ADEQUATE PUBLIC NOTICE AS SPECIFIED IN THIS PROCUREMENT CODE MANUAL SHALL BE PROVIDED.

***Job-Order-Contracting* (JOC)** means a project delivery method in which:

A. The contract is a requirements contract for indefinite quantities of construction.

B. The construction to be performed is specified in job orders issued during the contract.

C. Finance services, maintenance services, operations services, preconstruction services, design services related services may be included.

Life Cycle Cost Assessment (LCCA) means the comprehensive accounting of the total cost of ownership, including initial costs, energy, and operational costs, longevity and efficacy of service and disposal costs.

Local Vendor means any individual or company~~,~~ THAT HOLDS ~~with~~ a valid business license~~,~~ issued by the City of Flagstaff and MAINTAINS a business location within the City limits of Flagstaff~~,~~ for a period of six (6) months.

Materials means all ~~personal~~ property, including equipment, supplies, printing~~, and~~ insurance AND LEASES OF PROPERTY BUT DOES NOT INCLUDE, LAND, A PERMANENT INTEREST IN LAND OR REAL PROPERTY, OR LEASING SPACE.

May MEANS A ~~shall be construed as being~~ permissive ACTION.

Multi-Step Sealed Bidding means a two-phase process consisting of a technical first phase composed of one (1) or more steps in which Bidders submit un-priced technical offers to be evaluated by the City and a second phase in which those Bidders whose technical offers are determined to be acceptable during the first phase have their priced bid considered.

OWNER MEANS THE CITY GOVERNMENTAL UNIT.

ONLINE SOLICITATIONS/SUBMITTALS MEANS A PROCUREMENT PROCESS IN WHICH PUBLIC AGENCIES RECEIVE SOLICITATIONS/SUBMITTALS FOR THE PURCHASE OF MATERIALS, SERVICES, LEASES, OR CONSTRUCTION SERVICES ELECTRONICALLY, OVER THE INTERNET IN A REAL-TIME, COMPETITIVE PROCUREMENT EVENT.

Person shall include the state, the county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, limited liability company, association, organization, and any other group acting as a unit, as well as an individual. It includes a trustee, receiver or similar representative.

Price Data means information concerning prices, including profit, for materials, services, LEASES, or construction SERVICES ~~items~~ substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered or proposed selling prices, historical selling prices, or current selling prices of the items being purchased.

Private Development means commercial or residential development by the private sector.

Procurement means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, LEASES, OR ~~and~~ construction SERVICES. Procurement also includes all functions that pertain to the acquisition of any materials, services, LEASES, or construction SERVICES,

including A description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Code Manual means this Procurement Code Manual, outlining various procurement functions, as approved and adopted by the Flagstaff City Council.

Professional Services means those services requiring special knowledge, education or skill and where the qualifications of persons rendering the services are of primary importance. THIS shall include, but not be limited to, appraisers, attorneys, architects, engineers, surveyors, accountants, psychologists, physicians, and other health professionals.

Project Manager means a person who provides management and/or technical services required to implement a capital project pursuant to the project guidelines.

Proprietary Specification means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.

PROTEST MEANS AN ACTION TAKEN BY AN INTERESTED PARTY TO DISPUTE THE PROCESS OR OUTCOME OF A SOLICITATION.

PROPOSAL MEANS AN OFFER SUBMITTED IN RESPONSE TO A SOLICITATION.

Purchasing Agent means the Director, Purchasing Manager, Senior Procurement Specialist, PROCUREMENT SPECIALIST, Buyers, or any STAFF member of the Purchasing SECTION ~~Staff~~ authorized by the Director to commit the City to a purchase and manage, supervise, and monitor the execution of the terms and conditions of a contract.

~~***Purchase Description*** means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.~~

Purchase Requisition means a formal request for ~~a~~ materialS, serviceS, LEASES, or construction SERVICES and electronically submitted through the City's financial software system and processed into a formal purchase order.

Qualified Products List means an approved list of materials, services, LEASES, or construction SERVICES ~~items~~ described by model or catalogue numbers, that, prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

Quotation means a verbal or written commitment to supply materials, services, leases or construction services at a stated price and terms.

Recycled Content Product means a product containing a minimum of thirty-five percent (35%) recycled materials except in those cases where the US EPA has adopted procurement guidelines under the Resource Conservation Recovery Act of 1976.

Recyclable Product means a product or package made from a material for which curbside or drop-off collection systems are in place for a majority of City residents or businesses; to divert

from City solid waste for use as a raw material in the manufacture of another product or the reuse of the same product.

Request for Information means all documents ISSUED TO THE PUBLIC FOR THE SOLE PURPOSE OF SEEKING INFORMATION ABOUT THE AVAILABILITY IN THE COMMERCIAL MARKETPLACE OF MATERIALS OR SERVICES THAT MAY BE USED IN A SUBSEQUENT COMPETITIVE SOLICITATION. ADEQUATE PUBLIC NOTICE AS SPECIFIED IN THIS PROCUREMENT MANUAL CODE SHALL BE PROVIDED.~~, whether attached or incorporated by reference, which are used for soliciting unpriced information regarding a specific product or service for evaluation to determine what specifications or scope of work would be considered to be the most advantageous to the City to be specified in a subsequent competitive solicitation.~~

Request for Proposals (RFP) means A FORMAL SOLICITATION FOR THE AWARD OF MATERIALS, SERVICES, LEASES, OR CONSTRUCTION SERVICES WHERE PRICE IS NOT THE SOLE DETERMINING FACTOR AND THE CONTRACT WILL BE AWARDED BASED ON A COMBINATION OF COST AND EVALUATION CRITERIA ~~all documents, whether attached or incorporated by reference, which are used for soliciting formal proposals~~ in accordance with procedures prescribed in this Procurement Code Manual.

Request for Statements of Qualifications (RSOQ) means A FORMAL SOLICITATION WHERE NO COST INFORMATION (FEES, PRICE, MAN-HOURS, ETC.) SHALL BE CONSIDERED BY THE CITY OR EVALUATION COMMITTEE AT ANY POINT IN THE SELECTION PROCESS AND THE CONTRACT WILL BE AWARDED BASED ON DEMONSTRATED COMPETENCE AND QUALIFICATIONS TO PROVIDE THE TYPE OF SERVICES REQUIRED ~~all documents, whether attached or incorporated by reference, which are used for soliciting formal statements of qualifications~~ in accordance with procedures prescribed in this Procurement Code Manual.

Request for Quotation (RFQ) means AN~~ type of~~ INFORMAL SOLICITATION THAT FALLS INTO A DOLLAR THRESHOLD THAT REQUIRES COMPETITION BUT DOES NOT REQUIRE A FORMAL PROCEDURE. THERE ARE THREE (3) TYPES: ~~all documents, whether attached or incorporated by reference, which are used for soliciting quotations in accordance with procedures prescribed in the informal procurement process.~~

A. **BID-STYLE REQUEST FOR QUOTATION** IS MOST COMMONLY USED FOR MATERIALS AND NON-PROFESSIONAL SERVICES WHEN PRICING WILL BE THE ONLY DETERMINING FACTOR. THE RESULT MAY BE A ONE-TIME PURCHASE OR A TERM CONTRACT.

B. **RFP-STYLE REQUEST FOR QUOTATION** IS MOST COMMONLY USED FOR PROFESSIONAL SERVICES OR WHEN THE AWARD IS BASED ON PRICE AND ADDITIONAL QUALITATIVE CHARACTERISTICS. THE RESULT MAY BE A ONE-TIME PURCHASE OR A TERM CONTRACT.

C. **INFORMAL QUOTE** IS MOST COMMONLY USED FOR ONE-TIME MATERIAL-TYPE PURCHASES. TURNAROUND TIME ON INFORMAL QUOTES CAN RANGE FROM TWO DAYS TO TWO WEEKS. THE QUOTE DOCUMENTS MAY BE A SIMPLE, SINGLE PAGE OR MAY HAVE LIMITED ATTACHMENTS.

Requisitioner means any staff member, working for the City of Flagstaff, who has a request for ~~either a~~ materialS, serviceS, LEASES or construction SERVICES, and electronically submits a purchase requisition through the City's financial software system.

Responsible Bidder or Proposer means a person who has (A) the capability, skills and experience to perform the contract requirements; and (2) the integrity and reliability which will assure good faith performance.

Responsive Bidder or Proposer means a person who submits a bid OR PROPOSAL which conforms in all material respects to the invitation for bids or request for proposals.

RESPONDENT MEANS A PERSON WHO RESPONDS TO A SOLICITATION.

RESPONSE MEANS A RESPONSE TO A SOLICITATION.

Reusable Product A product that can be used several times for an intended end use before being discarded.

Service**s** means the furnishing of labor, time or effort by an independent contractor which does not involve the delivery of a specific end product other than required reports and performance.

Shall MEANS ~~The word "shall" shall be construed as being~~ A mandatory ACTION.

SOLE SOURCE PROCUREMENT MEANS A MATERIAL OR SERVICE PROCURED WITHOUT COMPETITION WHERE THE PURCHASING AGENT DETERMINES THAT THERE IS ONLY ONE (1) SOURCE FOR THE REQUIRED MATERIAL OR SERVICE.

Solicitation means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations, or any other invitation or request by which the City invites a person to participate in a procurement.

Specification means any description of the physical or functional characteristics, or of the nature of ~~a~~THE materialS, serviceS, LEASES, or construction SERVICES~~ item~~. Specification may include a description of any requirement for inspecting, testing, or preparing ~~a~~ materialS, serviceS, LEASES, or construction SERVICES~~ item~~ for delivery.

Surplus Property means any supplies, materials and equipment owned by the City, that no longer has any use to the City. This includes obsolete materials, scrap materials, and supplies, materials and equipment that have completed their useful life cycle.

Suspension means an action taken by the director temporarily disqualifying a person from participating in City procurements for six (6) months.

Sustainably Preferable Product means a product that has a reduced negative effect or increased positive effect on human health and the environment when compared with competing products that serve the same purpose. This term includes, but is not limited to, recyclable products, recycled products and reusable products.

Sustainable Product means a product that achieves performance objectives while respecting the City's values and balancing environmental stewardship, fiscal responsibility, social equity, and community enhancement.

Sustainable Purchasing means purchasing materials, products, and labor in a manner that reflects fiscal responsibility, social equity, environmental stewardship and community enhancement.

Task Order means a written form used in a process associated with On-Call contracts in which a task order form is submitted to initiate professional Architectural, Engineering, Surveying, Landscape Architecture and Geotechnical services from those firms who have been awarded an On-Call contract.

Technical Offer means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.

~~***Quotation*** means a verbal or written commitment to supply materials, services or construction at a stated price and terms.~~

~~***Request for Quotation (RFQ)*** means all documents, whether attached or incorporated by reference, which are used for soliciting quotations in accordance with procedures prescribed in the informal procurement process.~~

ARTICLE 5 UNAUTHORIZED PURCHASE

A. Any purchase made that does not follow any of the applicable processes under the provisions of this Article, is considered an unauthorized purchase.

B. All purchases will be made in accordance with this Procurement Code Manual. The following steps shall be included in the procurement process:

1. Electronic submission of a properly completed purchase requisition;

2. Verification by the requestor that funds are available;

3. The purchase requisition has gone through all other established approval processes;

4. All requisitions for materials, services, LEASES, ~~and~~ OR construction SERVICES that are **below THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER, ~~fifty thousand dollars ($50,000)~~** shall be subject to an informal competitive solicitation process under the provisions of Article 7(A); except as provided in Article 2 “Applicability”, Article 18 “Sole Source”, Article 19 “Emergency Purchase” and Article 20, “Procurements From Solicitations By Other Governmental Entities”;

5. All requisitions for materials, services, LEASES, ~~and~~ OR construction SERVICES **at THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER ~~fifty thousand dollars ($50,000) and higher~~**, shall be subject to a formal competitive solicitation process under the provisions of Article 7(B) and any contract award shall be approved by City Council; except as provided in Article 2 “Applicability”, Article 18 “Sole Source”, Article 19 “Emergency Purchase”; and Article 20, “Procurements From Solicitations By Other Governmental Agencies”; and

6. All purchases OF ~~for~~ materials, services, LEASES, ~~and~~ OR construction SERVICES shall have a properly executed purchase order and a contract, if a contract is deemed necessary, given the particular purchase, to be processed by the Purchasing Section.

C. An employee making a purchase not in conformance with this Procurement Code Manual, adopted rules and established procedures may be subject to:

1. Verbal consultation with individual;

2. Written reprimand with individual;

3. Revocation of purchasing rights; or

4. Other corrective action, as deemed appropriate

D. Any unauthorized purchase shall be reported to the appropriate Division or Department Head.

ARTICLE 6 DETERMINATIONS

Written determinations, if required by this Procurement Code Manual, shall be retained in the appropriate official record file of the Purchasing Section.

A. Determinations shall fully specify reasons.

B. The Director may specify the format for Determinations.

ARTICLE 7 INFORMAL AND FORMAL PROCUREMENT LIMITS; QUOTE FILE REQUIREMENTS

A. ***Informal Procurement Limit***

1. Procurement of ~~a~~ ANY materialS, serviceS, leases, or construction SERVICES **less than THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER, ~~fifty thousand dollars ($50,000)~~** shall be made by informal procedures in accordance with the provisions of Section 7.1 of this Procurement Code Manual and any applicable federal and state laws, rules and regulations except as provided in Article 2, “Applicability”; Article 18, “Sole Source”; Article 19, “Emergency Purchases”; Article 20, “Procurements From Solicitations By Other Governmental Entities”.

2. Procurements **less than THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER, ~~fifty thousand dollars ($50,000)~~** may be made utilizing a formal procurement process if:

   a. ~~d~~Deemed by the Director to be in the best interest of the City; OR

   b. DEEMED BY THE CITY MANAGER AS A MATTER OF HIGH COMMUNITY INTEREST AND/OR POTENTIAL CONTROVERSY, OR IN INSTANCES THAT THE CITY MANAGER DEEMS NECESSARY.

3. Procurements **less than THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER, ~~fifty thousand dollars ($50,000)~~** are not required to be approved and awarded by City Council.

4. THE CITY MANAGER RESERVES THE AUTHORITY TO BRING ANY CONTRACT RESULTING FROM AN INFORMAL PROCUREMENT TO THE CITY COUNCIL TO OBTAIN INPUT IN MATTERS OF HIGH COMMUNITY INTEREST AND/OR POTENTIAL CONTROVERSY, OR IN INSTANCES THAT THE CITY MANAGER DEEMS NECESSARY.

B. ***Formal Procurement Limit***

1. Procurement of ~~a~~ ANY materialS, serviceS, leases, or construction SERVICES **AT THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER OR AT HIGHER AMOUNTS,** ~~**fifty thousand dollars ($50,000)**~~ shall be made by formal procedures in accordance with the City Charter and provisions of Article 9 of this Procurement Code Manual and any applicable federal and state laws, rules and regulations, except as provided in Article 2, "Applicability"; Article 18, "Sole Source"; Article 19, "Emergency Purchases".

2. Procurements of ANY MATERIALS, SERVICES, LEASES, OR CONSTRUCTION SERVICES **AT THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER, OR AT HIGHER AMOUNTS,** ~~**fifty thousand dollars ($50,000) and higher,**~~ are required to be approved and awarded by City Council.

Section 7.1 Informal Procurement Process

A. Informal Procurement Process

Any procurement, established in Article 7(A) shall be made in accordance with established Procurement Code Manual procedures. Determination as to the use of informal or formal process shall be based on the cost of the item(s), including all taxes, fees, freight, installation and any other miscellaneous costs. The procurement shall be made with such competition as is outlined in B, C and D under this Section. Procurement requirements shall not be artificially divided or fragmented to circumvent the purchasing process under this section or the procedures required by Article 9, "Formal Procurement Process." This section shall not be construed to permit informal purchasing if there is a City Charter or ordinance provision or a Federal or State law, regulation or rule to the contrary.

B. Purchases at ~~Five~~ TWENTY-FIVE Thousand Dollars (~~$5,000~~ $25,000) or Less

SHALL BE MADE IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

1. For purchases **at or less than ~~five~~ TWENTY-FIVE thousand dollars (~~$5,000~~ $25,000)**, the Purchasing Agent or requesting Division or Section may direct select the vendor of choice for the purchase of any materials, services or construction requested. Reasonable good faith efforts shall be made to purchase from a Local Vendor by utilizing our local Vendor list as a first resource, provided the vendor is offering competitive pricing for the materials, services, LEASES, or construction SERVICES requested.

2. Any procurement that is federally funded, in whole or in part, shall utilize the micro-purchase threshold set by the Federal Acquisition Regulation without soliciting competitive quotations for purchases at or less than $3,500.

~~C. **PURCHASES AT FIVE THOUSAND AND ONE DOLLARS ($5,001) UP TO FIFTEEN THOUSAND DOLLARS ($15,000).**~~

~~For purchases **at five thousand and one dollars ($5,001) and up to fifteen thousand dollars ($15,000)**, the Purchasing Agent or requesting Department shall solicit, verbal quotations for the purchase of materials, services or construction from, at minimum three (3) Bidders or Proposers, as determined to be the most advantageous under the immediate circumstances, except as provided in Article 2, "Applicability"; Article 18, "Sole Source"; Article 19, "Emergency Purchases"; Article 20, "Procurements From Solicitations By Other Governmental Entities". Reasonable good faith efforts shall be made to solicit quotes from Local Vendors by utilizing our local Vendor list as a first resource. Verbal quotations obtained shall be documented in the procurement file.~~

~~D~~C. Purchases at ~~Fifteen~~ TWENTY-FIVE Thousand and One Dollars (~~$15,001~~ $25,001) up to ONE DOLLAR LESS THAN THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER ~~Forty Nine Thousand Nine Hundred and Ninety Dollars ($49,999).~~

~~For purchases at **fifteen thousand and one dollars ($15,001) up to forty nine thousand nine hundred and ninety nine dollars ($49,999),**~~

~~s~~Shall be made in accordance with the following procedures:

1. A Purchasing Agent or requesting Department shall solicit at least three (3) Bidders or Proposers to submit written or faxed quotations or proposals on vendor's letterhead or by e-mail. Whenever practicable, the City's standard Request for Quotations (RFQ) or Request for Proposals (RFP) document shall be utilized in an effort to obtain written quotes. The City Attorney's Office shall review the RFQ and RFP prior to issuance, if a contract is required for the procurement. Written quotations obtained shall be documented in the procurement file.

2. The Purchasing Agent may solicit quotations or Proposals from all vendors on the Bidder's list, but at minimum, shall solicit quotations or Proposals from Local Vendors by utilizing our local vendor list as a first resource and those Bidders or Proposers who have specifically requested an opportunity to submit a quotation or Proposal for the specific material, service or construction being requested at that time.

3. Award shall be made to the lowest responsive and responsible Bidder or highest scoring responsive and responsible Proposer submitting a responsive quotation or proposal. The amount of an applicable City Transaction Privilege or Use Tax shall not be a factor in determining the lowest Bidder if a competing Bidder, who is located outside the City, is not subject to an equal tax rate.

4. Whenever required by the Purchasing Agent, Bidders or Proposers shall submit quotes or proposals on the form issued with the Request for Quotation or Proposal, and the quotes shall be recorded and placed in the procurement file.

5. If only one responsive and responsible quotation or proposal is received, a statement shall be included in the procurement file explaining the basis for determining that the price and/or proposal is fair and reasonable. Time permitting,

the Purchasing Agent may initiate a second solicitation to include the vendor who provided the only response initially.

6. Whenever practicable, Article 27, “Specification Guidelines” shall be used in the development of specifications for a Request for Quotation or Proposal.

7. Written quotations or proposals transmitted via facsimile machine or e-mail shall be permitted provided the quotation or proposal bears the signature of an authorized agent of the Bidder or Proposer submitting the quotation or proposal.

   a. Quotations or proposals qualified in any manner are subject to rejection in whole or in part.

   b. Alternate quotations or proposals shall be considered unless specifically stated otherwise in the Request for Quotation.

   c. In the event of a discrepancy between the unit price and the extension price, the unit price shall govern.

   d. In the event of tied quotes, the tie shall be broken according to the following, determined by the Director :

      1. Best and final Offer when determined by the Director to be applicable; or

      2. Drawing lots.

   e. The City reserves the right to reject all quotations and seek new quotations with a new Request for Quotation.

8. In the evaluation of a response, preference will not be given to a respondent on the sole basis that the respondent is a flagstaff business or entity.

These procedures do not supersede Article 2, “Applicability”; Article 18, “Sole Source”; Article 19, “Emergency Purchases”; Article 20, “Procurements From Solicitations By Other Governmental Entities”.

Section 7.2 Vendor List

A. Any vendor who would like to be on the City’s ~~v~~Vendor ~~l~~List must register with the City’s Purchasing Section by completing a vendor application. The vendor application can be found on the City’s website by clicking on City Hall/Department/Purchasing/Vendor Registration/Vendor Application.

B. Once a vendor’s application has been received and approved, the vendor will be assigned a vendor number and placed on the vendor list that will reference the products and/or services they provide.

C. Vendors are encouraged to sign up for electronic SOLICITATION~~bid~~ notifications by clicking on a link SET UP IN THE CITY'S WEBSITE FOR ELECTRONIC SOLICITATIONS. ~~"New Bid Notifications", which is where vendors subscribe to be set up to receive automatic bid notifications.~~

Section 7.3 ***Vendor Awards***

Contract award information is posted to the City's ELECTRONIC SOLICITING website and can be viewed by clicking on THE ELECTRONIC LINK AT City Hall/Department/Purchasing/Bid Tabulation.

Section 7.4 ***Quote File Requirements***

~~A. Verbal and written quote files shall be set up, within the Purchasing Section, to retain for record keeping purposes.~~

~~B. Verbal quote files shall be set up by the Purchasing Section for each purchase~~ **~~over five thousand dollars ($5,000) and up to fifteen thousand dollars ($15,000)~~**~~.~~

Written quote files shall be set up by the Purchasing Section for each purchase OVER TWENTY-FIVE THOUSAND AND ONE DOLLARS ($25,001) AND UP TO THE FORMAL THRESHOLD, AS DESCRIBED IN THE CITY CHARTER. ~~**over fifteen five thousand dollars ($15,000) and up to forty nine thousand nine hundred and ninety nine dollars ($49,999)**~~.

ARTICLE 8 ***AVAILABLE FUNDS***

Unencumbered funds to cover the entire purchase must be available in the appropriate account of the Operating Budget or other appropriate fund against which the purchase is to be charged prior to the commitment to purchase except multi-year contracts, in which case only funds for the first year of the contract need be appropriated.

Section 8.1 ***Available Funds Identification***

A. Solicitations pursuant to the formal bidding process may not be issued when using un-designated funds, contingency funds, or funds transferred between departments unless approved in writing by the Director of Management Services or appointed designee.

B. Solicitations pursuant to Article 9, "Formal Procurement Process", shall not be issued prior to the appropriate approval for use of certain funds requiring budget transfers to or from capital and salary accounts.

C. Solicitations pursuant to Article 9, "Formal Procurement Process", shall not be issued prior to the acceptance by the City Council of any grant funds, unless approved in writing by the Director of Management Services or appointed designee.

D. Requestors are responsible for verifying available funds prior to submitting a purchase requisition and shall enter an electronic purchase requisition prior to requesting the issuance of a formal solicitation.

Section 8.2 ***Petty Cash (Reserved)***

Section 8.3 Procurement Cards (Reserved)

ARTICLE 9 FORMAL PROCUREMENT PROCESS

Except as otherwise provided in this Procurement Code Manual, a procurement which exceeds the formal procurement limit specified in Article 7(B), "Formal Procurement Limit", shall be made in accordance with either Article 10, "Formal Procurement Process—Invitation for Bids", Article 11, "Formal Procurement Process—Request for Proposals" or Article 12, "Formal Procurement Process—Professional Design Services, Capital Improvements/Construction and Construction Services".

ARTICLE 10 FORMAL PROCUREMENT PROCESS--INVITATION FOR BIDS

The formal procurement process using an Invitation for Bids is typically used for the purchase of materials and capital improvements/construction projects, where the specifications and/or scope are definitively defined and the price is the determining factor in the award of a contract. The Invitation for Bids document shall include specifications and/or scope of work, and all terms and conditions applicable to the procurement. The contract's inception is with the Invitation for Bids document that outlines all of the terms and conditions as the contractual language and incorporates the successful Bidder's bid submittal, which is adopted by reference. The Invitation for Bids document contains an Offer and Contract Award form that is signed by both the successful Bidder and the Purchasing Agent, which consummates the contract award.

Section 10.1 Invitation for Bids Determination

The Purchasing Agent shall determine if the Invitation for Bids process is applicable for the selection of the material, service or construction with an estimated expenditure exceeding the formal bid limit.

Section 10.2 Request for Issuance of an Invitation for Bids

A. The Requisitioner or "End-user" shall electronically submit a requisition referencing the cost estimate or approved budget for the requested material, service or construction.

B. The Purchasing Agent shall obtain a bid number from the Solicitation Log Book in the Purchasing Section, provide the description of the purchase or project, the Purchasing Agent assigned and determine the appropriate solicitation document and agreement to be used.

C. The Requisitioner or "End-user" shall provide the specifications and/or scope of work to the Purchasing Section to be incorporated into the bid solicitation.

D. Once the bid solicitation is complete, the Purchasing Agent shall forward to the City Attorney's office for review before issuance of the solicitation.

Section 10.3 Invitation for Bids

An Invitation for Bids shall be issued when the evaluation and selection of a vendor for award is based on the lowest, responsive and responsible Bidder. The bid document shall include a purchase description and all contractual terms and conditions applicable to the procurement.

A. An Invitation for Bids shall be issued at least **twenty one (21) days** before the closing date and time for receipt of bids, unless a shorter time is determined necessary in writing by the Purchasing Agent pursuant to a written request from the requesting Department. However, in accordance with the Flagstaff City Charter, public notice of the Invitation for Bids shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of the bids.

B. Sealed Bids shall be opened publicly at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified by rule, together with the name of each Bidder shall be recorded. The bids shall not be open for public inspection until after a contract is awarded, except to the extent the Bidder designates, and the Director concurs, that trade secrets or other proprietary data contained in the bid documents shall remain confidential in accordance with established rules.

C. Bids shall be unconditionally accepted without alteration or correction, except as authorized in item (D) of this section. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids as prescribed in the procurement rules. No criteria may be used in bid evaluation that are not set forth in the Invitation for Bids.

D. Correction or withdrawal of erroneous bids before or after bid opening, based on bid mistakes, may be permitted in accordance with established rules. After bid opening, no corrections in bid prices or other provisions of bids prejudicial to the best interest of the City or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Director.

E. The contract shall be awarded to the lowest responsive and responsible Bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids. The amount of any applicable City of Flagstaff Transaction Privilege or Use Tax is not a factor in determining the lowest Bidder. The contract file shall contain the basis on which the award is made.

F. The multi-step sealed bidding method may be used if the Director determines, in writing, that it is not practicable to initially prepare a definitive purchase description which is suitable to permit an award based on competitive sealed bidding. An Invitation for Bids may be issued requesting the submission of technical offers to be followed by an Invitation for Bids soliciting priced offers limited to those Bidders whose offers are determined to be technically acceptable under the criteria set forth in the first solicitation.

Section 10.4 Invitation for Bids, Format, Content, Public Inspection

A. In all competitive sealed bidding procurements, the Purchasing Section shall issue the standard Invitation for Bids document established and approved by the Purchasing Section and the City Attorney's office.

B. The Invitation for Bids shall include the following:

1. Instructions and information to Bidders concerning the bid submission requirements, including the time and date set for bid opening, the address of the

office where bids are to be received, the period that the bid shall remain open, and any other special information;

2. The purchase description, specifications, evaluation criteria, delivery or performance schedule, and inspection and acceptance requirements;

3. The standard contract terms and conditions, including warranty and bonding or other security requirements, as applicable;

4. If the Invitation for Bids incorporates documents by reference, the Invitation for Bids shall specify where such documents may be obtained;

5. An Invitation for Bids may require the submission of bid samples, descriptive literature, technical data and may require inspection or testing of a product before award;

6. Invitation for Bids shall require, from all Bidders, the submission of a non-collusion affidavit on a form included in the Invitation for Bids document. Failure of any Bidder to provide the non-collusion affidavit, as a part of his sealed bid, shall be grounds for disqualification of the bid; and

7. Invitation for Bids shall be advertised, at least one (1) time, in the Arizona Daily Sun and posted to the City's website.

C. Solicitations posted on the City's web site are available for downloading, as well as other means of obtaining a solicitation as follows:

1. Interested Bidders may subscribe to receive an e-mail based notification of all current solicitation opportunities;

2. Interested Bidders may pick up solicitations from the Purchasing Section during normal business hours; or

3. Interested Bidders can email the Purchasing Section and request an electronic copy of the solicitation via email.

Section 10.5 Pre-Bid Conference

A pre-bid conference may be conducted within a reasonable time before bid opening to discuss the procurement requirements and solicit comments from prospective Bidders. Pre-bid conferences may be held multiple times at the discretion of the Purchasing Agent and the end-user.

A. Pre-bid conferences are typically non-mandatory, but prospective Bidders are highly encouraged to attend. Prospective Bidders who cannot physically attend, can conference in by phone. Prospective Bidders who choose this option will need to contact the Purchasing Agent, whose name is on the cover page of the bid document to get the phone number and conference ID number.

B. Pre-bid conferences may be mandatory if the Purchasing Agent and end-user determine that the bid specifications are too complex and would warrant mandatory attendance at the pre-bid conference to discuss and ensure that prospective Bidders fully understand the specifications outlined in the bid document. Prospective Bidders who cannot physically

attend, can conference in by phone. Prospective Bidders who choose this option will need to contact the Purchasing Agent, whose name is on the cover page of the bid document to get the phone number and conference ID number.

C. Prospective Bidders who submit a bid in response to an Invitation for Bids, but did not attend a mandatory pre-bid conference (either physically or by phone) will be deemed nonresponsive and their bid shall not be considered for evaluation and award.

Section 10.6 Addendum to Invitation for Bids

A. An Addendum to an Invitation for Bids shall be issued if necessary to:

1. Make changes in the Invitation for Bids;

2. Correct defects or ambiguities;

3. Furnish to other Bidders information given to one Bidder if the information will assist the other Bidders in submitting bids, or if the lack of the information will prejudice the other Bidders; or

4. Inform Bidders of alternate materials accepted for bid.

B. An addendum to an Invitation for Bids shall be so identified and shall be posted to the City's web site and sent by the Purchasing Section to all persons who provided an "Acknowledgement of Receipt" form when practicable, depending on the number of prospective Bidders who submitted this form.

C. All addendums shall be issued at least seven (7) days prior to bid opening to allow prospective Bidders to consider them in preparing their bids, unless a shorter time is determined necessary, in writing, by the Purchasing Agent pursuant to a written request from the requesting Department. If the time and date set for bid opening do not permit sufficient time for bid preparation, the time and date for bid opening shall be extended in the addendum or, if necessary, by fax, e-mail**,** or telephone and then confirmed in the addendum.

Section 10.7 Pre-Opening Modifications or Withdrawal of Bids

A. Bidders may modify or withdraw their bid at any time before bid opening if the modification or withdrawal request is received in writing before the time and date set for bid opening in a location designated in the Invitation for Bids for receipt of bids.

B. All documents concerning a modification or withdrawal of a bid shall be retained in the appropriate procurement file.

Section 10.8 Late Bids, Late Withdrawals, and Late Modifications

A. A bid, modification or withdrawal is late and shall not be accepted if it is received at the location designated in the Invitation for Bids for receipt of bids after the time and date referenced in the solicitation document.

B. A late bid, late modification, or late withdrawal shall be rejected unless the bid, modification, or withdrawal is received before contract award at the location designated in the Invitation for Bids for receipt of bids and would have been timely received but for the action or inaction of the City.

C. Bidders submitting bids, modifications or withdrawals that are rejected as late shall be so notified as soon as practicable.

D. All documents concerning a late bid, late modification, or late withdrawal shall be retained in the appropriate procurement file.

E. All late bids shall be returned, unopened, to the vendor.

Section 10.9 Receipt, Opening, Recording of Bids, and Confidential Information

A. Each bid and modification shall be date and time-stamped upon receipt and stored unopened in a secure place, within the Purchasing Section, until the time and date set for bid opening.

B. Bids and modifications shall be opened publicly and in the presence of one or more witnesses at the time, date, and location designated in the Invitation for Bids for bid opening. The name of each Bidder, the bid price, and other information deemed appropriate shall be read aloud and recorded on a bid tabulation form. The name of the required witness shall also be recorded. All other information in a Bidder's bid package (e.g., trade secrets or other proprietary information, shall not be made available for public inspection until after a contract has been awarded, except to the extent the Bidder designates, and the Director concurs, that trade secrets or other proprietary data contained in their bid submittal shall remain confidential in accordance with established rules.

C. All bids shall be irrevocable for, a minimum of, ninety (90) days or as deemed appropriate by the Director.

D. After contract award, or at the Director's discretion, the bids shall be available for public inspection except to the extent that the withholding of information is permitted or required by law. If the Bidder designates a portion of the bid as confidential, disclosure of such portion shall be made in accordance with the following:

1. If a Bidder believes that a bid contains information that should be withheld, a statement advising the Director of this fact shall accompany the submission, and the information shall be so identified wherever it appears. The information identified by the person as confidential shall not be disclosed until the Director makes a written determination;

2. The Director shall review the statement and information and shall determine in writing whether the information shall be withheld; and

3. If the Director makes the determination to disclose the information, the Director shall inform the Bidder in writing of such determination.

Section 10.10 Mistakes in Bids

A. A Bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 10.7, “Pre-Opening Modification or Withdrawal of Bids”.

B. After bid opening, a bid mistake, not resulting from an error in judgment may not be corrected or withdrawn. Other bid mistakes may be corrected or withdrawn pursuant to the following:

1. After bid opening, the Director may either waive minor informalities in a bid or allow the Bidder to correct them if a written determination is made that such action would not result in a pecuniary competitive bidding advantage to that Bidder. Nothing in this section shall be construed as requiring the Director to waive any informalities or to allow their correction.

2. After bid opening, the bid may not be withdrawn and shall be corrected to the intended bid if a bid mistake and the intended bid are evident on the face of the bid.

3. After bid opening, the Director may permit a Bidder to withdraw a bid if:

   a. A mistake, not resulting from an error in judgment, is evident on the face of the bid but the intended bid; or

   b. The Bidder establishes to the Director’s satisfaction that a mistake was made not resulting in an error in judgment.

4. In the event of a discrepancy between the unit price and a multiplied subtotal the unit price shall govern.

5. Mistakes shall not be corrected after award of the contract except where the Director makes a written determination that it would be unconscionable not to allow the mistake to be corrected.

C. If correction or withdrawal of a bid after the bid opening is permitted or denied, the Director shall prepare a written determination showing that the relief was permitted or denied under these established rules and regulations.

Section 10.11 Bid Evaluation and Award

A. The contract shall be awarded to the lowest responsible and responsive Bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation for Bids.

B. A product acceptability evaluation shall be conducted solely to determine whether a Bidder’s product is acceptable as set forth in the Invitation for Bids and not whether one Bidder’s product is superior to another Bidder’s product. Any Bidder’s offering that does not meet the acceptability requirements shall be rejected as non-responsive.

C. Bids shall be evaluated to determine which Bidder offers the lowest cost to the City in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively

measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest Bidder. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs or life cycle cost formula. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the Director has available concerning future use.

D. A contract may not be awarded to a Bidder submitting a higher quality item than that designated in the Invitation for Bids unless the Bidder is also the lowest Bidder as determined under Subpart C of this Section. This Section does not permit negotiations with any Bidder, unless the lowest, responsive and responsible Bidder's bid exceeds the available monies budgeted for the material, service or construction, which would allow negotiations with the lowest, responsive and responsible Bidder.

E. In the event two or more low responsive bids from responsible Bidders are identical in price and meet all the requirements and criteria set forth in the Invitation for Bids, the tie shall be broken according to the following determined by the Director:

1. Best and Final offer when determined by the Director to be applicable; or

2. Draw lots

F. A record showing the basis for determining the successful Bidder shall be retained in the procurement file.

G. The Purchasing Agent involved with the purchase shall provide a written notice of award to the successful Bidder within **twenty-four (24) hours** of Council award. For procurements equal to or in excess of the formal procurement limit, each unsuccessful Bidder shall be notified in writing of the award within **fourteen (14) days**. Notice of award shall be made available to the public.

H. In the evaluation of a response to a formal procurement process, points will not be awarded and preference will not be given to a respondent on the sole basis that the respondent is a flagstaff business or entity.

Section 10.12 Only One Bid Received

If only one responsive and responsible bid is received in response to an Invitation for Bids, an award may be made to the single Bidder if the Director determines that the price submitted is fair and reasonable, and that other prospective Bidders had reasonable opportunity to respond and there is not adequate time for re-solicitation. Otherwise, the bid will be rejected pursuant to the provisions of Article 15, "Cancellation or Rejection of Solicitations", and:

A. New bids may be solicited; or

B. If the Purchasing Agent determines, in writing, that the need for the material, service or construction continues and the acceptance of the one bid is not advantageous to the City, the procurement may then be conducted under Article 18, **"**Sole Source" or Article 19, "Emergency Purchase", as appropriate.

Section 10.13 Multi-Step Sealed Bidding

A. The multi-step sealed bidding method may be used if the Director determines that:

1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each Bidder and the City;

2. Definite criteria exist for evaluation of technical offers;

3. More than one technically qualified source is expected to be available; and

4. A fixed price contract will be used.

B. The Purchasing Agent may hold a pre-bid conference with Bidders before submission or at any time during the evaluation of the unpriced technical offers.

Section 10.14 Phase One Of Multi-Step Sealed Bidding

A. Multi-step sealed bidding shall be initiated by the issuance of an Invitation to Submit Technical Offers. The Invitation to Submit Technical Offers shall be issued according to Section 10.3, “Invitation for Bids”, and shall contain the following information:

1. Notice that the procurement shall be conducted in two phases;

2. The best description of the material or services desired;

3. A statement that unpriced technical offers only shall be considered in phase one;

4. The requirements for the technical offers, such as drawings and descriptive literature;

5. The criteria for evaluating technical offers;

6. The closing date and time for receipt of technical offers and the location where offers should be delivered or mailed;

7. A statement that discussions may be held; and

8. A statement that only bids based on technical offers, determined to be acceptable in phase one, shall be considered for award.

B. The Invitation to Submit Technical Offers may be amended after the submission of the unpriced technical offers. The amendment shall be distributed only to Bidders who submitted unpriced technical offers, and those Bidders shall be permitted to submit new unpriced technical offers or to amend the offers already submitted. If an amendment materially changes the procurement, the Invitation to Submit Technical Offers shall be canceled in accordance with Article 15, “Cancellation or Rejection of Solicitations”.

C. Unpriced technical offers shall not be opened publicly, but shall be opened in the presence of the Procurement Agent and at least one witness. The contents of unpriced technical offers shall not be disclosed to unauthorized persons.

D. Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the Invitation to Submit Technical Offers and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the contract file. If the Director determines a Bidder's unpriced technical offer is unacceptable, the Purchasing Agent shall notify that Bidder of the determination and that the Bidder shall not be afforded an opportunity to amend its technical offer.

E. The Purchasing Agent may conduct discussions with any Bidder who submits an acceptable or potentially acceptable technical offer. During discussions, the Purchasing Agent shall not disclose any information derived from unpriced technical offers to any other Bidder. After discussions, the Purchasing Agent shall establish a closing date for receipt of final technical offers and shall notify, in writing, Bidders submitting acceptable or potentially acceptable offers of the closing date. The Purchasing Agent shall keep a record of all discussions.

F. At any time during Phase One, offers may be withdrawn in accordance with Section 10.7, "Pre-Opening Modifications or Withdrawal of Bids".

Section 10.15 Phase Two of Multi-Step Sealed Bidding

A. Upon completion of Phase One, the Purchasing Agent shall issue an Invitation for Bids and conduct Phase Two under Section 10.3, "Invitation for Bids", as a competitive sealed bidding procurement, except that the Invitation for Bids shall be issued only to Bidders whose technical offers were determined to be acceptable in Phase One.

B. Unpriced technical offers of unsuccessful Bidders shall not be open to public inspection until after a contract has been awarded, except to the extent set forth in Section 10.9, "Receipt, Opening, Recording of Bids and Confidential Information".

ARTICLE 11 FORMAL PROCUREMENT PROCESS – REQUEST FOR PROPOSALS

If the Director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by competitive sealed proposals. The Purchasing Section shall issue the standard Request for Proposals document established and approved by the Purchasing Section and the City Attorney's office. A Request for Proposals shall be issued when the evaluation and selection of a vendor for award includes other established evaluation criteria in addition to price and/or the scope of work/specifications are not definitively defined. The Request for Proposal document shall include a scope of work, and all contractual terms and conditions applicable to the procurement.

Section 11.1 Request for Proposals Determination

The Purchasing Agent shall determine if the Request for Proposals process is applicable for the selection of the material or service. Request for Proposals shall not be used for design-bid-build construction projects. However, a Request for Proposals may be used for any of the Alternative

Project Delivery Methods (e.g., JOC, CMAR or Design-Build) as phase 2 of a Request for Statements of Qualifications process.

Section 11.2 Request for Issuance of a Request for Proposals

A. The Requisitioner or "End-user" shall electronically submit a requisition referencing the cost estimate or approved budget for the requested material or service.

B. The Purchasing Agent shall obtain a proposal number from the Solicitation Log Book, located in the Purchasing Section and provide the description and the Purchasing Agent assigned.

C. The Requisitioner or "End-user" shall provide the specifications and/or scope of work to the Purchasing Section. Once the solicitation is complete, the Purchasing Agent shall forward to the City Attorney's office for review before issuance of the solicitation.

Section 11.3 Request for Proposals

A. Request for Proposals may be considered to be more practicable or advantageous if it is necessary to:

1. Use a contract other than a fixed-price type;

2. Conduct oral or written discussions with Proposers concerning technical and price aspects of their proposals;

3. Afford Proposers an opportunity to revise their proposals;

4. Compare the different price, quality, and contractual factors of the proposals submitted;

5. Award a contract in which price is not the determining factor; and/or

6. Specifications and/or scope of work are not clear or well-defined.

7. Proposals shall be opened publicly at the time and place designated in the Request for Proposals. Only the name of each Proposer shall be publicly read and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing Proposers during the process of evaluation. The proposals shall be open for public inspection after contract award. Except to the extent the Proposer designates and the Director concurs, trade secrets or other proprietary data contained in the proposal documents shall remain confidential in accordance with established rules.

8. Specific numerical weighting is not required. However, the Request for Proposal document shall state the relative importance of price and other evaluation factors.
9. As provided in the Request for Proposals, and under established rules, discussions may be conducted with responsible Proposers who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair treatment with respect to any

opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and before award for the purpose of clarification. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers.

10. The award shall be made to the responsible Proposer whose proposal is determined in writing to be the most advantageous to the City taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria may be used in the evaluation. The amount of any applicable City Transaction Privilege or Use Tax is not a factor in determining the most advantageous proposal. The contract file shall contain the basis on which the award is made.

B. Request for Proposals shall set forth those factors listed in Section 10.4, "Invitation for Bids, Format, Content, Public Inspection" that are applicable and shall also state:

1. The type of materials or services required and a description of the work involved;

2. The type of contract to be used;

3. An estimated duration that the service will be required;

4. That cost or pricing data is required;

5. That discussions may be conducted with Proposers who submit proposals determined to be reasonably susceptible of being selected for award;

6. The minimum information that the proposal shall contain;

7. The closing date and time for receipt of proposals; and

8. The evaluation criteria that will be used to evaluate proposal responses. Numerical weighting is not required. However, the Request for Proposal document shall reference each evaluation criterion's relative importance.

C. A Request for Proposals shall be issued at least **twenty one (21) days** before the closing date and time for receipt of proposals, unless a shorter time is determined necessary in writing by the Director pursuant to a written request from the requesting Department receiving the materials or services. In accordance with the Flagstaff City Charter, public notice of the Request for Proposals shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of the proposals.

D. In all competitive sealed Request for Proposals, the Purchasing Section shall issue a Request for Proposals using a solicitation document approved by the Purchasing Section and the City Attorney's office.

Section 11.4 Solicitation Opportunities

1. Solicitations shall be advertised in the Arizona Daily Sun and posted on the City's website. Prospective Proposers can download the solicitation and all other related documents at: flagstaff.az.gov/departments/purchasing/bidpostings-overview.

After the heading “Bids available for download,” click on “bid postings”. All solicitations may be picked up from the Purchasing Section during normal business hours.

2. Interested Bidders can download and complete a Vendor Application form from the City’s website. The Vendor Application form allows a Vendor to subscribe to receive an e-mail based notification of all current solicitation opportunities.

Section 11.5 Pre-Proposal Conferences

Pre-proposal conferences may be convened in accordance with the same procedures outlined in Section 10.5, “Pre-Bid Conferences”.

Section 11.6 Late Proposals, Modifications or Withdrawals

A. A proposal received after the closing date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in Section 10.8, “Late Bids, Late Withdrawals and Late Modifications”. A best and final offer received after the closing date and time for receipt of best and final offers is late and shall not be considered except under the circumstances in accordance with the same procedures outlined in Section 10.8 (B), “Late Bids, Late Withdrawals and Late Modifications”.

B. A modification of a proposal received after the closing date and time for receipt of proposals is late and shall not be considered except under the circumstances in accordance with the same procedures outlined in Section 10.8(B), “Late Bids, Late Withdrawals and Late Modifications”.

C. A modification of a proposal resulting from an addendum issued after the closing date and time for receipt of proposals or a modification of a proposal resulting from discussions during negotiations shall be considered if received by the closing date and time set forth in the addendum or by the closing date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered except under the circumstances in accordance with the same procedures outlined in Section 10.8 (B), “Late Bids, Late Withdrawals and Late Modifications”.

D. A proposal may be withdrawn at any time before the closing date and time for receipt of best and final offers. Withdrawal of a proposal after submission of best and final offers is permissible only in accordance with Section 11.11 (B), “Mistakes in Proposal Response”.

Section 11.7 Receipt of Proposals

A. Each proposal received shall be date and time-stamped and retained in a secure place, within the Purchasing Section, until the closing date and time for receipt of proposals. A record of proposals shall be prepared and shall contain the name of each Proposer, the subject of the Request for Proposals and the assigned Request For Proposals number for which the proposal was submitted.

B. Proposals shall be opened in the presence of one (1) or more witnesses. During the evaluation process, proposals and modifications shall be shown only to those individuals involved in the evaluation and scoring process.

C. If only one proposal is received in response to a Request for Proposals, the Purchasing Agent may either make an award in accordance with Section 11.12, "Contract Award for Request for Proposals", or if time permits, re-solicit.

Section 11.8 Evaluation of Proposals

A. Evaluation of proposals shall be based on the evaluation criteria set forth in the Request for Proposals.

Section 11.9 Discussions with Responsible Proposers and Revisions to Proposal

A. Discussions may be conducted with responsible Proposers who submit proposals determined to be reasonably susceptible of being selected for award; for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussions and revision of proposals, and such revisions may be permitted after submissions and prior to award, for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers. The purpose of such discussions may be to:

1. Determine in greater detail such Proposer's qualifications;

2. Explore with the Proposer the scope and nature of the project, the Proposer's proposed presented approach, the relative utility of alternate methods of approach and method of performance;

3. Determine that the Proposer will make available the necessary personnel and facilities to perform within the required time; and

4. Agree upon compensation which is fair and reasonable, taking into account the estimated value of the required services/equipment, the scope and complexity of proposed project and nature of such services/equipment.

B. After an evaluation committee has reviewed all of the initial proposals, discussions may be held between the responding Proposers and the evaluation committee. Such discussions are conducted to more fully understand the initial proposals submitted by the Proposers.

C. Following the initial proposal review and discussions phase, the evaluation committee may either recommend an award to a specific firm or firms, if their proposal is clearly the best offer, or further define the RFP's needs within the scope of the original RFP and call for best and final offers.

D. Proposal information may not be disclosed to any other Proposer. Each Proposer's information and pricing shall be kept under strict security until after an award recommendation has been made.

E. All responsive and responsible Proposers are to be given a fair and equal opportunity to respond to any narrowed scope/specification needs stated within the written best and final offer document that may be issued by the Director. If the evaluation process clearly proved (with supportive evidence) that certain Proposers were incapable of meeting the scope and needs of the RFP in a satisfactory manner, then those Proposers may be removed from further consideration during the best and final offer phase of the RFP evaluation process. The criteria for being removed from best and final consideration must be well documented and placed in the bid/contract file.

F. Best and final offers shall be requested in formal writing by the Purchasing Section and a reasonable time period given to Proposers for making a quality response. Any requested, best and final offer shall be within the scope of the original RFP and used to further identify and clarify specific service/product needs and appropriate pricing requirements based on those further clarified needs. .

Section 11.10 Best and Final Offers; Tied Proposals

A. If discussions are conducted pursuant to Section 11.9, “Discussions With Responsible Proposers and Revisions to Proposal”, the Purchasing Agent shall issue a formal written request for best and final offers. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the Purchasing Agent makes a written determination that it is advantageous to the City to conduct further discussions or change the City's requirements. The request for best and final offers shall inform Proposers that, if they do not submit a best and final offer, their immediate previous offer will be construed as their best and final offer.

B. In the event of tied proposals, the tie shall be broken according to the following determined by the Director:

1. Best and final offer when determined by the Director to be applicable; or

2. Draw lots.

Section 11.11 Mistakes in Proposal Response

A. Prior to the time and date set for receipt of best and final offers, any Proposer may withdraw their best and final offer or correct any mistake by modifying their best and final offer.

B. Proposers submitting a best and final offer, may withdraw a proposal or correct a mistake after the specified due date, in accordance with Section 10.10, “Mistakes in Bids”.

Section 11.12 Contract Award for Request for Proposals

A. The contract shall be awarded to the Proposer whose proposal is responsive and responsible and determined in writing to be the most advantageous to the City based on the factors set forth in the Request for Proposals. The determination shall explain the basis of the award.

B. If the Contract(s) awarded exceeds the formal procurement limit, each unsuccessful Proposer shall be notified in writing of the award.

C. After contract award or as determined by the Purchasing Agent**,** the proposals shall be open for public inspection, except to the extent that the withholding of information is permitted or required by law. If the Proposer designates a portion of the proposal as confidential, disclosure of such portion shall be made in accordance with the following:

1. If a Proposer believes that a proposal contains information that should be withheld, a statement advising the Purchasing Agent of this fact shall accompany the submission and the information shall be so identified wherever it appears. The information identified by the Proposer as confidential shall not be disclosed until the Purchasing Agent makes a written determination;

2. The Purchasing Agent shall review the statement and information and shall determine in writing whether the information shall be withheld; and

3. If the Purchasing Agent makes the determination to disclose the information, the Purchasing Agent shall inform the Proposer in writing of such determination.

ARTICLE 12 FORMAL PROCUREMENT PROCESS – PROFESSIONAL DESIGN SERVICES, CAPITAL IMPROVEMENTS/CONSTRUCTION AND CONSTRUCTION SERVICES

The formal procurement process for professional design services and capital improvements/construction projects utilizes different solicitation documents than the Request for Proposals.

A. If the procurement is for professional design services, the Purchasing Agent shall utilize the Request for Statements of Qualifications solicitation.

B. If the procurement is for capital improvements/construction, the Purchasing Agent shall utilize the Invitation for Bids (IFB) or one of the Alternative Project Delivery Methods, such as Construction Manager At Risk (CMAR), Design Build (DB) or Job Order Contracting (JOC), as deemed appropriate.

C. If any of the Alternative Project Delivery Methods are utilized, the solicitation and contract award shall be based on “qualifications” or “Best Value” utilizing the Request for Statements of Qualifications (RSOQ).

D. In the event a decision is made by the Purchasing Agent to have a phase 2 of the solicitation process, a Request for Proposals may be used to include pricing information.

Both the Request for Statements of Qualifications and the Request for proposals documents shall include specifications and/or scope of work, and all contractual terms and conditions applicable to the procurement.

Section 12.1 Request for Solicitation Determination

The Purchasing Agent shall determine if the Invitation for Bids or one of the Alternative Project Delivery Methods, followed by a Request for proposals, if there is a phase 2, is more appropriate for the selection of the service or construction with an estimated expenditure exceeding the formal procurement limit.

Section 12.2 Request for Issuance of a Formal Solicitation

A. The Requisitioner or "End-user" shall electronically submit a requisition referencing the cost estimate or approved budget for the requested service or construction.

B. The Purchasing Agent shall obtain a bid number from the Solicitation Log Book in the Purchasing Section, provide the description of the purchase or project, the Purchasing Agent assigned and determine the appropriate solicitation document and agreement to be used.

C. The Requisitioner or "End-user" shall provide the specifications and/or scope of work to the Purchasing Section. Once the solicitation is complete, the Purchasing Agent shall forward to the City Attorney's office for review before issuance of the solicitation.

Section 12.3 Professional Design Services

Professional Design Services are those services that are legally required to be accomplished, reviewed and approved by professionals registered to practice in the State of Arizona and pertain to the following professional services:

A. Architect services
B. Engineering services
C. Assayer services
D. Geologist services
E. Landscape Architect services
F. Land Surveying services

Contracts for these professional design services shall be solicited through a Request for Statements of Qualifications, except as otherwise provided for in Article 18, Sole Source, Article 19, Emergency Purchase, or Article 20, "Procurements From Solicitations by Other Governmental Entities". The Purchasing Section shall issue the standard Request for Statements of Qualifications document established and approved by the Purchasing Section and the City Attorney's office. All contracts for professional services referenced above, shall be awarded and administered in accordance with the requirements of A.R.S. Title 34, Public Buildings and Improvements and the appropriate Article or Section of this Procurement Code Manual.

The Request for Statements of Qualifications shall be issued at least **twenty one (21) days** before the closing date and time for receipt of statements of qualifications, unless a shorter time is determined necessary in writing by the Director. In accordance with the Flagstaff City Charter, public notice of the Request for Statements of Qualifications shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of statements of qualifications.

Section 12.4 Capital Improvements/Construction

A. Capital Improvements is the construction related projects involving the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property, which extends the life or increases the productivity of the real property. Construction is the process of building, altering, repairing, improving or demolishing any public infrastructure facility, including public structure, public building, or other public improvements of any kind to any real property.

Construction does not include the routine operation, routine repair, or routine maintenance of existing public infrastructures or facilities, including structures, buildings or real property.

B. Contracts for capital improvements/construction shall be solicited utilizing an Invitation for Bids process or one of the Alternative Project Delivery Methods, except as otherwise provided for in Article 18, “Sole Source” or Article 19, “Emergency Purchase”.

C. The Purchasing Section shall issue the appropriate, selected, solicitation document established and approved by the Purchasing Section and the City Attorney’s office.

D. All contracts for Capital Improvements/construction shall be awarded and administered in accordance with the requirements of A.R.S. Title 34, Public Buildings and Improvements and the appropriate Article or Section of this Procurement Code Manual.

E. Bidders shall submit subcontractor lists for all subcontracts that are above $5,000. Bids not in compliance with this requirement shall be deemed non-responsive. Submission of the subcontractor list shall act as Bidder certification that the work shall be performed by either the Bidder or the listed subcontractors. Substitutions may be allowed for reasons including, but not limited to, subcontractor non-responsiveness, insolvency, or any other reason deemed by the Director to be in the best interest of the City.

Section 12.5 Construction Services

Construction Services is a combination of construction and one or more related services, such as finance services, maintenance services, operations services, design services and pre-construction services, as these services are authorized in the definitions of Construction Manager at Risk, Design Build or Job Order Contracting as follows:

A. Construction-Manager-At-Risk is a project delivery method in which:

1. There is a separate contract for design services and a separate contract for construction services;

2. The contract for construction services may be entered into at the same time as the contract for design services or at a later time;

3. Design and construction of the project may be in sequential phases or concurrent phases; and

4. Finance services, maintenance services, operations services, preconstruction services, and other related services may be included.

B. Design-Build is a project delivery method in which:

1. There is a single contract for design services and construction services;

2. Design and construction of the project may be in sequential phases or concurrent phases; and

3. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.

C. Job-Order-Contracting is a project delivery method in which:

1. The contract is a requirements contract for indefinite quantities of construction;

2. The construction to be performed is specified in job orders issued during the contract;

3. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included; and

4. The project limit shall be set by the Director in accordance with A.R.S. Title 34, Public Buildings and Improvements.

D. Design-Bid-Build is the traditional project delivery method, other than the three (3) alternative project delivery methods, referenced above, in which:

1. There is a sequential award of two (2) separate contracts;

2. The first contract is for design services;

3. The second contract is for the actual construction;

4. Design and construction of the project are in sequential phases; and

5. Finance services, maintenance services and operations services are not included.

E. Contracts for construction services shall be solicited through a construction-manager-at-risk, design-build or job-order-contracting selection process utilizing a Request for Statement of Qualifications, except as otherwise provided for in Article 18, “Sole Source” or Article 19, “Emergency Purchase”. The Purchasing Section shall issue the standard Request for Statements of qualifications document established and approved by the Purchasing Section and the City Attorney’s office. All contracts for professional services referenced above, shall be awarded and administered in accordance with the requirements of A.R.S. Title 34, Public Buildings and Improvements and the appropriate Article or Section of this Procurement Code Manual.

The Request for Statements of Qualifications shall be issued at least **twenty one (21) days** before the closing date and time for receipt of statements of qualifications, unless a shorter time is determined necessary in writing by the Director. In accordance with the Flagstaff City Charter, public notice of the Request for Statements of Qualifications shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of statements of qualifications.

ARTICLE 13 FORMAL SOLICITATION ADVERTISING

A. The Purchasing Agent shall advertise all formal solicitations as follows:

1. IFB- At least one (1) time in a local newspaper of general circulation no less than five (5) days prior to bid opening.

2. RFP-At least one (1) time in a newspaper of general circulation no less than five (5) days prior to proposal opening.

3. RSOQ- At least two (2) consecutive times in a newspaper of general circulation no less than six (6) days apart and no more than ten (10) days apart prior to the statement of qualifications opening. The opening shall not be less than five (5) days from the last advertisement.

B. The requisitioning department shall budget for this required advertising.

C. The City web site references all formal solicitation opportunities.

D. The Purchasing Section may mail a notice of solicitation and any addendums to persons listed on the City Bidder's List and any person requesting the information. Bidnet, Arizona Procurement Technical Assistance Network, Construction News, Dodge, and other resources deemed appropriate by the Purchasing Section may be included in mailing lists for all applicable solicitations. All solicitations listed on the City's web site are available for downloading. Interested Bidders may subscribe to receive an e-mail based notification of all current solicitation opportunities by downloading and completing a vendor application from the City's website. The vendor application can be found by going to the City's website home page, clicking on City Hall, and then Departments, and then Purchasing and then vendor registration and then the link for vendor application.

E. All solicitations may be picked up from the Purchasing Section during normal business hours. For construction related projects involving plan sets, the City's Project Manager assigned to the project or a designee within their Division or Section shall be responsible for providing and logging plan sets requested by prospective Proposers.

F. The Purchasing Section shall be responsible for scheduling bid or proposal openings and required pre-bid or pre-proposal conferences and post award meetings.

G. The Purchasing Agent shall determine and coordinate any necessary addendums and issue any required addendums, receive bids or proposals and conduct bid or proposal openings.

1. Only the Purchasing Section may supply interested persons with official copies of formal solicitations; and

2. Only a Purchasing Agent may issue a Notice of Award or a Notice to Proceed.

ARTICLE 14 EVALUATION/SELECTION COMMITTEE FOR MATERIALS, SERVICES, PROFESSIONAL DESIGN SERVICES AND CONSTRUCTION

All vendor responses to formal solicitations that contain evaluation criteria, in addition to price, shall be evaluated and scored by an evaluation/selection committee according to the following:

A. The committee shall review and evaluate vendor responses according to the evaluation criteria referenced in the solicitation document. All committee members shall score each vendor according to the scoring matrix provided by the Purchasing Agent.

Section 14.1 Guidelines for Evaluation/Selection Committee; Selection Process

A. ***Appoint Evaluation/Selection Committee for Materials and Services:***

1. The selection of Evaluation Committee members shall be determined, collectively, by the Purchasing Agent and the end-user. The evaluation committee shall consist of at least three (3) people, but preferably five (5) people. For any evaluation committee comprised of more than three (3) members, the committee shall consist of an odd number of members. Committee membership shall be a diverse group familiar with the elements contained in the Scope of Work.

2. Evaluation Committee membership is not restricted to City employees. However, committee members may not receive compensation**,** present a proposal, nor be affiliated with a person presenting a proposal.

3. Evaluation Committee members may be required to attend a training session on the elements of evaluating proposal responses from Proposers and the various elements to be scored, given the evaluation criteria outlined in the solicitation document.

B. ***Appoint Evaluation/Selection Committee for Professional Design Services:***

1. The selection of Evaluation Committee members shall be initiated and determined, collectively, by the Purchasing Agent and the City Project Manager assigned to the project. The evaluation committee shall consist of at least five (5) members, but no more than seven (7) members and shall include at least one (1) member who is a senior management employee of a licensed Contractor and one (1) member who is an Architect or Engineer registered in the State of Arizona. The remaining evaluation committee membership shall be a diverse group familiar with the elements contained in the Scope of Work. A member on the evaluation committee, who is not an employee of the City, shall not be a Contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract.

2. These members may be employees of the City or not an employee of the City. Members who are not employees of the City, outside Contractors, Architects and Engineers serving on an evaluation committee, are not entitled to receive compensation from the City for performing this service, nor be affiliated with a person submitting a statement of qualifications. However, the City may elect to reimburse members who are not employees of the City, outside Contractors,

Architects and Engineers for travel, lodging and other expenses incurred in connection with service on an evaluation committee.

3. Evaluation Committee members may be required to attend a training session on the elements of evaluating proposal responses from Proposers and the various elements to be scored, given the evaluation criteria outlined in the solicitation document.

C. ***Appoint Evaluation/Selection Committee for <u>Construction</u> (utilizing a Request for Statements of Qualifications solicitation):***

1. The selection of Evaluation Committee members shall be initiated and determined, collectively, by the Purchasing Agent and the City Project Manager assigned to the project. <u>The evaluation committee shall consist of at least five (5) members, but no more than seven (7) members and shall include at least one (1) member who is a senior management employee of a licensed Contractor and one (1) member who is an Architect or Engineer registered in the State of Arizona</u>. The remaining evaluation committee membership shall be a diverse group familiar with the elements contained in the Scope of Work. A member on the evaluation committee, who is not an employee of the City, shall not be a Contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract.

2. These members may be employees of the City or not an employee of the City. Members who are not employees of the City, outside Contractors, Architects and Engineers serving on an evaluation committee, are not entitled to receive compensation from the City for performing this service, nor be affiliated with a person submitting a statement of qualifications. However, the City may elect to reimburse members who are not employees of the City, outside Contractors, Architects and Engineers for travel, lodging and other expenses incurred in connection with service on an evaluation committee.

3. Evaluation Committee members may be required to attend a training session on the elements of evaluating proposal responses from Proposers and the various elements to be scored, given the evaluation criteria outlined in the solicitation document.

Section 14.2 Guidelines for the Selection of Evaluation Criteria Used in a Solicitation Advertised as an Invitation for Bids, Request for Proposals or a Request for Statements of Qualifications

A. Evaluation criteria are determined by the Director and the end-user or City Project Manager. Evaluation criteria shall be objectively measurable and allow for the evaluation, selection and award of a contract in the best interest of the City.

B. All solicitations advertised as a Request for Statements of Qualifications shall include the evaluation criterion “Value Added Knowledge and Experience” as follows:

<u>Value Added Knowledge and Experience</u> (10 points/10%)

The team hired by the City must be familiar with local community needs, standards, historical challenges, local codes and site conditions. Additionally, the team must be accessible to City staff and citizens (e.g., public hearings, neighborhood meetings and other citizen outreach identified in the Request for Statements of Qualifications) during the contracted design and construction phase of the Project.

1. Resolution of issues may be part of the project work. Describe your response protocol and how the firm's Project Manager (or responsible person in charge) will be accessible to City staff and citizens.
2. Explain why your firm is particularly qualified to perform your services in the Flagstaff area. Demonstrate the Project Manager's (or responsible person in charge) knowledge of local geology, climate, practices, materials and codes by specifying in the submittal their experience working in the Northern Arizona region or in a region with geology, climate and conditions similar to those of the City of Flagstaff.

    a. Briefly describe two of your most recent projects that were performed in the greater Flagstaff area as defined by the Regional Plan and/or Flagstaff Metropolitan Planning Organization (FMPO) boundaries.

3. During construction what it the response time by a qualified person (decision making authority) to meet in person and resolve concerns and to accommodate unforeseen issues?

C. The Director may establish a specific weight percentage for each Value Added Knowledge and Experience sub-section, not to exceed the total 10 points or 10% assigned for all of the Value Added Knowledge and Experience evaluation criterion.

SECTION 14.3. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

ARTICLE 15 CANCELLATION OR REJECTION OF SOLICITATIONS

An Invitation for Bids, a Request for Proposals or Request for Statements of Qualifications may be canceled by the Director prior to the solicitation opening. However, all bids, proposals or statements of qualifications submitted by a Bidder or proposer may be rejected after the solicitation opening, but the rejection of solicitation shall be approved by City Council as provided in the City Charter.

Section 15.1 Solicitation Statement

Each solicitation issued by the City shall state that the solicitation may be canceled or bids or proposals rejected in whole or in part.

Section 15.2 Cancellation of Solicitation Before Bids or Proposals Are Due

A. Before bids or proposals are due, a solicitation may be canceled if the Purchasing Agent determines that cancellation is advantageous to the City.

B. If a solicitation is canceled before bids or proposals are due, notice of cancellation shall be posted to the City website and sent to all prospective Bidders or Proposers who completed and provided to the Purchasing Section an Acknowledgment of Receipt form when practicable, depending on the number of prospective Bidders who submitted this form. The notice of cancellation shall identify the solicitation and briefly explain the reason for cancellation.

C. Any bids or proposals received by the City for a canceled solicitation shall be returned to the Bidder or Proposer unopened.

Section 15.3 Cancellation of Solicitation After Bids or Proposals Are Due

A. After opening of bids or proposals, but before award, a solicitation may be canceled if the Purchasing Agent determines that cancellation is advantageous to the City.

B. A notice of cancellation shall be sent to all Bidders or Proposers submitting bids or proposals.

C. Bids or proposals received shall be placed in a sealed file pending a decision of a rebid of the solicitation. In the event of a rebid of the solicitation, the file shall remain sealed until an award is made.

Section 15.4 Rejection of All Solicitations

A. After receipt, opening and evaluation, but before award, all solicitations may be rejected if determined to be in the best interest of the City. However, any recommendations for a solicitation to be rejected shall be approved by the City Council.

B. A notice of rejection shall be sent to all Bidders or Proposers submitting bids or proposals.

Section 15.5 Procurement Procedural Irregularity

The Purchasing Agent shall act to cancel or reject in the event that action is deemed in the best interest of the City due to a procurement procedural irregularity.

ARTICLE 16 DETERMINATION OF BIDDER AND PROPOSER RESPONSIBILITY

A. The Purchasing Agent shall consider the responsibility of any vendor prior to purchasing materials or services from such vendor. The Purchasing Agent shall prepare a written evaluation of a vendor's responsibility for any procurement for services or materials of $50,000 or more. The evaluation will be placed in the vendor's file.

B. Factors to be considered in determining if a vendor is responsible include those set forth below. Any single factor or combination of factors may be grounds for determination of non-responsibility.

1. The vendor's capacity to do the work, including adequate finances, equipment, facilities, employees and competing commitments;

2. The competency and responsibility of the vendor's proposed subcontractors;

3. The vendor's experience in performing similar work; especially for the City, or other public agency contracts;

4. The vendor's integrity and record of performance:

   a. Positive factors include but are not limited to timely completion within budget, quality of work, prompt resolution of problems, good working relationships and the ability to resolve disputes without litigation or threats of litigation;

   b. Negative factors include but are not limited to past contract terminations or deductions due to failure to perform; termination for cause due to breach; past contract terminations for any reason; failure to comply with the contract; documented poor performance; customer complaints and/or negative references; unresolved disputes with project owners or subcontractors; the lack of ability to resolve disputes without litigation; and litigation without merit. In addition, any of the grounds set forth in Article 30 for suspension or debarment may be considered.

5. The vendor is qualified legally to contract with the City;

6. Whether the vendor has truthfully supplied all information concerning its responsibility requested by the Purchasing Agent; and

7. Whether the vendor holds any required and active valid State of Arizona license(s) to conduct business or to perform the work proposed.

8. Any other evaluation criteria listed in the solicitation. Examples of other evaluation criteria include but are not limited to: requirement of a balanced bid, requirement that the bid or proposal identify the percentage and cost of work that each

subcontractor will perform and a cap on the total project value that can be completed by subcontractors, or requirement that no work shall be subcontracted.

C. The Purchasing Agent may establish specific responsibility criteria for a particular procurement. All responsibility criteria shall be listed in the solicitation. The solicitation should specify that "The responsibility of the Bidder will be determined based on factors described in Article 16 of the Procurement Code Manual.

D. If the Purchasing Agent determines that a vendor is non-responsible, the determination shall be approved by the Director and in consultation with the City Attorney, shall be in writing and set forth the basis for the determination. A copy of the determination shall be promptly sent to the non-responsible Bidder or Proposer. The Bidder or Proposer may protest the determination by following Article 29, "Protests", Sections 29.1 through 29.6. If the Director in consultation with the City Attorney determines the Bidder or Proposer is non-responsible, no further administrative remedy is available, as the City will not conduct a hearing. The Bidder or Proposer has no due process right to a hearing, but may have the right to file a special action, see Grand Canyon Pipelines, Inc. v. City of Tempe, 816 P.2d 247 (Ariz. App 1991). The final determination shall be made part of the procurement file.

E. If a contractor desires to substitute a subcontractor at any time after contract award, the Director shall evaluate the competency and responsibility of the proposed new subcontractor. The contractor shall submit complete information to the City and the City shall not be liable for any damages for project delays resulting from such substitution. The City reserves the right to reject substitution of contractors where the contractor was selected in part due to the unique and special skills or knowledge of such subcontractor and if the solicitation clearly provides that the City may reject substitution of such subcontractor.

Section 16.1 Request for Review of Responsibility

A. In the event a Purchasing Agent has cause to question the responsibility of the low Bidder or highest scoring Proposer, a formal letter shall be sent to the Bidder or Proposer containing all information available, including the specific areas where responsibility evidence is desired. In the event the low bid appears to be underbid, unbalanced or not financially viable, the Purchasing Agent may require the low Bidder to provide an accounting, showing that the work can be completed at the bid price.

B. Information supplied by the Bidder or Proposer shall be evaluated by the Purchasing Agent.

C. In the event the Bidder or Proposer is determined non-responsible**,** the Bidder or Proposer shall be notified in writing of the decision.

ARTICLE 17 COST OR PRICING DATA

A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is reasonable and fair. A Bidder or Proposer shall, when requested, submit current cost or pricing data and shall certify that, to the best of the Bidder's or Proposer's

knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date.

B. This certification may also be requested to substantiate requests for price adjustments for contracts with options to extend and any contract modification or change order.

C. This certification may also be requested to substantiate requests for cost reimbursements pursuant to the specific terms and conditions contained in a City contract.

Section 17.1 Reimbursement

Provisions for reimbursement of costs shall, where applicable, be included in the terms of the contract and it shall be required that written approval of the Procurement Agent be obtained by the Bidder or Proposer prior to incurring costs to be reimbursed.

ARTICLE 18 SOLE SOURCE

A. A contract may be awarded for a material, service or construction without competition if the Purchasing Agent determines in writing that there is only one source for the required material or service. The Director may require the submission of cost or pricing data in connection with an award under this section. Sole Source Procurement shall be avoided, except when no reasonable alternative sources exist. The written determination of the basis for the Sole Source Procurement shall be included in the contract file.

B. The Purchasing Agent shall negotiate with the sole source Bidder or Proposer, to the extent practicable, a contract advantageous to the City.

C. Sole Source purchases authorized by the Purchasing Agent, which exceed the formal procurement limit, shall be awarded pursuant to Article 26, “Award of Contract”.

Section 18.1 Sole Source Procurement, Evidence Request

A. In the event a Department or Division requests a Sole Source Procurement, written evidence and report of research to support the request shall be provided to the Purchasing Agent.

1. A Department or Division, requesting a Sole Source Procurement, is required to complete and submit the “Sole Source, Proprietary and Emergency Procurement Request Form,” which is reviewed by the Purchasing Agent managing the Sole Source Procurement.

2. The Sole Source Procurement may be approved if the Purchasing Agent determines that there is sufficient research and justification to support that there is only one (1) known source that is able to provide the material good or service.

3. When processing a Sole Source Procurement, the Purchasing Director may require that some form of public notification of the City’s intent to utilize a Sole Source Procurement be posted on the electronic bid and proposal website utilized by the City to advertise solicitations.

B. Negotiations involving Sole Source Procurement shall not commence until the Purchasing Agent has approved the Sole Source Procurement.

Section 18.2 Sole Source Justification

A. Justification for sole source purchases, at **five thousand and one dollars ($5,001)** and greater, are required.

B. The Purchasing Agent shall approve, prior to any negotiation, any Sole Source purchase over **five thousand dollars ($5,000)** pursuant to Section 18.1, "Sole Source, Evidence Request".

C. A sole source agreement at **five thousand and one dollars ($5,001)** and up to **forty nine thousand nine hundred and ninety nine dollars ($49,999)** may be approved by the Director for a period up to five (5) years based on City requirements and market conditions. A sole source agreement at **fifty thousand ($50,000)** and greater, shall be approved by City Council for a period up to five (5) years.

ARTICLE 19 EMERGENCY PURCHASE

Notwithstanding any other provision in this Procurement Code Manual, the Director may make or authorize others to make Emergency Purchases if there is a threat to public health, welfare, or safety or if a situation exists which makes compliance with the procurement process specified in Articles 10, "Formal Procurement Process—Invitation For Bids", Article 11, "Formal Procurement Process—Request For Proposals" and Article 12, "Formal Procurement Process—Professional Design Services, Capital Improvements/Construction And Construction Services" contrary to the public interest. Emergency Purchases shall be made with such competition as is practicable under the circumstances.

Section 19.1 Conditions for Emergency Purchase

An emergency shall be deemed to exist if:

A. There is a great public calamity;

B. There is immediate need to prepare for national or local defense;

C. There is a breakdown in machinery or an essential service which requires the immediate purchase of supplies or services to protect the public health, welfare or safety; or

D. An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed formal or informal purchasing procedure would cause an undue delay in procurement of the needed item or service.

Section 19.2 Emergency Purchase Procedure

A. If the Emergency Purchase occurs during Purchasing Office hours, the requesting department or division shall contact the Director or a Purchasing Agent who shall procure or authorize the Emergency Purchase of the necessary materials, services or construction and fully document the Emergency Purchase.

B. A department or division requesting an Emergency Purchase is required to complete and submit the “Sole Source, Proprietary, and Emergency Procurement Request Form,” which is reviewed by the Director or Purchasing Agent managing the Emergency Purchase.

C. The Emergency Purchase will be approved and signed off on if the Director or Purchasing Agent determines that there is sufficient research and justification to support that delaying the Emergency Purchase to comply with the provisions herein may cause a threat to the public health, welfare, or safety of the public.

D. In the event the Emergency Purchase occurs after Purchasing Office hours, any City employee may make any necessary procurement after receipt of authorization from the Department's or Division’s Manager or Supervisor.

1. By the next working day, a full report of the circumstances of the Emergency Purchase shall be made by the person making the purchase. The report shall be filed with the Director for inclusion in the appropriate Purchasing records; and

2. If the Emergency Purchase exceeded the formal bid limit, the Director and the City employee who made the Emergency Purchase, shall seek approval of the purchase from the City Council as a confirming payment.

ARTICLE 20 PROCUREMENTS FROM SOLICITATION BY OTHER GOVERNMENTAL ENTITIES

The City may enter into contracts for the procurement of materials, services or construction pursuant to specifications, solicitations or contracts issued by other governmental entities. Such purchases shall conform to state procurement statutes and the Purchasing Agent involved shall conduct due diligence and conclude that the solicitations or contracts issued by other governmental entities conform to the purpose and spirit of this Procurement Code Manual.

Section 20.1 Existing Contracts

A. When making a purchase that conforms to the purpose and spirit of this Procurement Code Manual and the purchase exceeds the City’s formal bid limit, the Director shall place a written justification for the use of a contract issued by another governmental agency in the City's contract file, provided the Bidder or Proposer is willing to extend the contract to the City and the Purchasing Agent and the requesting Division obtains City Council approval prior to making the purchase.

B. The Purchasing Agent shall execute a Purchase Order or Notice of Award referencing the applicable contract of the soliciting entity.

Section 20.2 Joint Solicitations

A. When the City intends to purchase materials or services with another governmental agency through a contract with that agency and the selected Bidder or Proposer, the City may participate in any solicitation issued by that governmental agency provided:

1. The Procurement Officer of the other governmental agency invites the participation or responds positively to a request by the City to participate;

2. The terms and conditions of the lead agency's solicitation have been reviewed by the Purchasing Agent and the City Attorney's office and determined to be advantageous to the City; and

3. The procurement process governing the solicitation substantially conforms to the purpose and spirit of this Procurement Code Manual.

B. Another governmental agency may join in any formal solicitation issued by the City provided:

1. The governmental agency will be a party to the contract which the City and the selected Bidder or Proposer will enter into; and

2. The participation is not found by the Director to be disadvantageous to the City.

C. The provisions of this joint solicitation rule do not apply to the City's participation in solicitations conducted by, but not limited to, the following governmental entities or groups of governmental entities: The Flagstaff Alliance For The Second Century, the State of Arizona, Mohave Educational Services Cooperative, the Western States Contracting Alliance (WSCA), U.S. Communities and the Strategic Alliance for Volume Expenditures (SAVE). Participation in these procurements will continue to be subject to the terms and conditions specified in their respective contracts.

Section 20.3 Cooperative Purchasing Contract Awards

Cooperative purchasing contracts shall be awarded as specified in Article 26, "Award of Contract".

Section 20.4 Purchases From Existing Contracts

A. The Director or Purchasing Agent and the Requesting Division shall determine, collectively, whether using an existing contract from another governmental entity would be in the best interest of the City.

B. The terms and conditions of the selected governmental entity's solicitation have been reviewed by the Purchasing Agent and the City Attorney's office and determined to be advantageous to the City.

C. The Director or Purchasing Agent shall make the purchase according to all applicable sections within this Procurement Code Manual.

Section 20.5 Request for Joint Solicitation

A. The Requesting Department shall request, in writing to the Director, participation in a joint solicitation.

1. Written request shall include the volume and estimated value of the purchase, which agency is to conduct the solicitation, and benefit to the City for the joint solicitation; and

2. Upon written approval, by the Director, the City's Requesting Department shall coordinate with the other entity the preparation of specifications.

B. The procurement activity shall be conducted or coordinated by the Director or Purchasing Agent whether the City is the lead agency, or another governmental entity is the lead agency.

Section 20.6 Commitment to Purchase or Participate

The Director or Purchasing Agent, in conjunction with the requesting Division, shall determine if it is advantageous for the City to a purchase pursuant to a contract issued by another governmental entity or to participate in a joint solicitation with another governmental entity.

ARTICLE 21 BID AND CONTRACT SECURITY

The submission of security to guarantee faithful bid and contract performance may be required. In determining the amount and type of security required for each contract, the Director shall consider the nature of the performance and the need for future protection for the City. The requirement for security must be included in the solicitation documents.

Section 21.1 Bid Bond

The Purchasing Agent shall determine, on a case by case basis, the need for Bid Security and the amount in order to protect the interest of the City, except where specifically required by A.R.S., Title 34, Public Buildings and Improvements.

A. If required by A.R.S., Title 34, Public Buildings and Improvements, the security shall be in the form of a bid bond issued by a company authorized to issue surety bonds in the State of Arizona or a Cashier's Check made payable to the City of Flagstaff in the amount of ten percent (10%) of the vendor's total bid.

B. Bid Security shall be returned to all but the two lowest responsible and responsive Bidders or Proposer within ten (10) days after the opening of bids, and the remaining securities returned within three (3) days after the execution of the contract.

Section 21.2 Performance and Payment Bonds

The Purchasing Agent shall determine, on a case by case basis, the need for a Performance and/or Payment Bond and the amount in order to protect the interests of the City, except where specifically required by A.R.S., Title 34, Public Buildings and Improvements.

A. If required by A.R.S., Title 34, Public Buildings and Improvements, the security shall be in the form of a Performance Bond or Payment Bond issued by a person authorized to issue surety bonds in the State of Arizona, or upon approval of the Director**,** secured Cashier's Check made payable to the City of Flagstaff in the amount of one hundred percent (100%) of the vendor's total bid. Individual or personal sureties will not be allowed**.**

B. The contract number and dates of performance must be clearly indicated in the Bond.

C. The Director may consider other forms of Performance and Payment guarantee, depending on the project, with the concurrence of the City's Risk Manager and the City Attorney's office.

Section 21.3 Collection of Bid Bonds

The Purchasing Agent shall notify vendors/contractors, in writing, who fail to execute required contracts of their bond forfeiture and shall act to collect the bond amount if a surety was posted.

Section 21.4 Enforcement of Performance Bond

A. The Purchasing Agent shall notify vendors/contractors, in writing, who fail to provide performance bonds of their default, initiate action to award to second low Bidder or re-bid.

B. The City's Project Manager or Purchasing Agent shall notify the Director and the City Attorney's office of any performance deficiency in order that the City may initiate a claim against the performance bond in the event the deficiency cannot be resolved with the vendor/ contractor.

ARTICLE 22 MULTI-TERM CONTRACTS

A. Unless otherwise provided by law, a contract for materials or services may be entered into for a period of time up to five years, as deemed to be in the best interest of the City, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal year period at the time of contracting. A contract may be entered into for a period of time exceeding five years if the Director determines in writing that such a contract would be advantageous to the City and the City Council approves the contract term.

B. Multi-term contracts shall contain provisions for cancellation by the City in the event funds are not appropriated for the continuance of the contract.

Section 22.1 Determination for Contract Periods Over 5 Years

A. Written requests for contracts exceeding five (5) years shall justify the advantage to the City and indicate why more frequent competition is not practicable.

Section 22.2 Establishment of Contract Period

A. The Director and requesting department shall determine the appropriate contract period based on market conditions, nature of the material or service, and applicable Contract Administration factors.

B. Contracts due to expire prior to a formal solicitation for a new term contract award may be extended on a month to month basis, approved by the Director, to maintain organizational service levels until a new formal solicitation can be conducted and a new contract awarded.

Section 22.3 Authority to Renew

A. The Purchasing Director shall have authority to renew a contract if the original contract, approved by City Council, contains a provision that allows for contract renewals upon mutual agreement of both parties and the Purchasing Director has determined in writing that the vendor is not in breach of contract and is performing satisfactorily.

ARTICLE 23 RIGHT TO INSPECT; AUDIT

A. ***Right to inspect***. The City may, at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the City.

B. ***Right to Audit***. The City may at reasonable times and places, audit the books and records of any person who submits cost or pricing data to the extent that the books and records relate to the cost or pricing data, or audit the books and records of any person under any contract to the extent that the books and records relate to the performance of the contract. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless a shorter period is otherwise deemed appropriate by the Director.

ARTICLE 24 CONTRACT PROVISIONS AND AMENDMENTS

A. The Director and the City Attorney's office shall require inclusion in all contracts various provisions regarding appropriate remedies, time of performance, insurance, assurance, price increase limits, options to renew, cost reimbursement and any other terms and conditions, considered to be protective clauses and advantageous to the City.

Section 24.1 Standard Provisions

The Director and the City Attorney's office shall prepare and make available standard contract language for contracts subject to this Procurement Code Manual and State of Arizona statutory requirements. Any modification, deletion, or addition to established contract language shall only be made with the prior approval of the Director and City Attorney's office.

Section 24.2 Effective Dates

All contracts shall state an effective date, initial term of the contract and any contract renewal options after the initial contract term expires and, if applicable, performance dates or notice requirements for implementation date.

Section 24.3 Contract Review Process

A. All contracts shall be reviewed by the Purchasing Agent and the City Attorney's office prior to issuance of a solicitation or execution by the Bidder or Proposer for the purpose of including all applicable contract provisions advantageous to the City.

B. When deemed appropriate, the Director may also require review and approval by other City Staff.

Section 24.4 Contract Preparation Process

A. All contracts shall be referenced by a number assigned by the Procurement Agent.

B. Contracts shall be awarded according to Section 26.1 "Notice of Intent to Award".

C. Formal contracts, at minimum, shall be prepared and signed in triplicate**.** The successful Bidder or Proposer shall sign the contract first, whenever possible. The contract shall then be routed using a "Document Tracking" form to the City Attorney's office for an Attorney's signature and then routed to the City Clerk's office for signature by the City Manager or Mayor, as appropriate, and then signed by the City Clerk. The distribution of signed contracts shall be as follows: one (1) original copy to the Bidder or Proposer, one (1) original copy to be put in the solicitation file within the Purchasing Section and one (1) original copy to the City Clerk's office.

Section 24.5 Contracts to be Maintained by the City Clerk

A. A copy of all original signed contracts, including any associated amendments, shall be forwarded to the City Clerk who shall assign a contract number and maintain all City wide contracts.

Section 24.6 Contract Amendments

Contracts may be amended if the Director, end-user and the City Attorney's office determines, in writing, that such modification is advantageous to the City, except contracts originally awarded by the City Council may be amended only with the approval of the City Council, unless the amendment is to provide necessary clarification, provided by the Director and City Attorney's office, to eliminate varying interpretation.

A. Amendments to contracts shall include signatures of all parties signing the original contract, except where personnel changes have been made to authorized agents of a business entity or the positions of authority within the City. Contract amendments shall be drafted or reviewed by the Purchasing Section and the City Attorney's office prior to signing by the vendor.

B. Amendments that increase the total expenditure commitment from the informal to formal procurement limit are subject to approval through the formal contract award process as required in Section 26.1 "Notice of Intent to Award".

C. Contract amendments shall not alter the terms and conditions or scope of work to the extent that, had the contract been bid in the modified state, the resulting low Bidder could have changed, or to the extent that the bid participation could reasonably have been expected to have increased.

Section 24.7 Contract Amendment Preparation

A. Contract amendments shall be prepared in triplicate, using the standard format provided by the Director, and shall be numbered the same as the original contract and routed in accordance with the same procedures outlined in Section 24.3, "Contract Preparation Process".

B. Contract amendments shall be signed by all parties signing the original contract.

Section 24.8 Contract Amendment Process

A. Changes not within the context of the original scope of work may not be accomplished with a change order, but shall require a Contract amendment and City Council approval if the contract amount is at or higher than the formal procurement limit of $50,000.

B. Contract amendments shall be reviewed and approved prior to the signing by the vendor in the following sequence:

1. Purchasing
2. City Attorney's Office
3. City Council (If contract amount is at or higher than $50,000)

C. A copy of any contract amendment shall be sent to the Purchasing Office for inclusion in the procurement file. When applicable, a memo citing the original Purchase Order number shall be attached to the modification to authorize increase/decrease to the encumbrance by the amount needed to meet the new contractual commitment.

ARTICLE 25 CHANGE ORDERS

A. *Change Orders*

The City of Flagstaff recognizes the need for City staff to review and approve change orders; task orders that exceed the City Council approved contract amounts; field orders that exceed the authorized limits; and purchase orders for capital projects that exceed the established limit in the City Procurement Code Manual.

The purpose of the Change Order Committee shall have authority to:

1. Review and recommend to City Council approvals, modifications, or disapprovals of design and construction change orders exceeding the time and/or dollar contractual amounts approved by the City Council;

2. Review and approve individual task orders for on-call consultant services that exceed $100,000 or 365 calendar days;

3. Review and approve field orders that exceed $100,000 or 60 calendar days;

4. Review and recommend to City Council approval of dollar and time amounts for engineering studies, feasibility studies, reports, contracts, and purchase orders for capital projects that exceed the amount approved by the City Council or that exceed the purchasing limits, as outlined in this Procurement Code Manual; and

5. Review anticipated purchases by the City that require approval as determined by the City Manager, City Attorney, or City Director.

Section 25.1 Change Order Process

A change order shall be in written form for any and all changes in the contract's time, conditions or compensation. This written change shall be submitted to the Change Order Committee.

A. Exception 1 – A Field Order, which is a written and limited change order that is issued under the Contract Allowance provision, or Owner (city) and Contractor Contingencies, does not require Change Order Committee action.

Staff shall have the following field order authorities:

Project Manager – Change by an amount up to $10,000 and up to and through 10 calendar days.
Section Head – Change by an amount up to $25,000 and up to and through 30 calendar days.
Division Head – Change by an amount up to the full Contract Allowance amount and up to and through 60 calendar days.

Field Orders that exceed $100,000 or 60 calendar days require the Change Order Committee to approve the field order. The Change Order Committee can approve extensions with a "no time limit" cap, if it is a no cost change.

B. Exception 2 – A Task Order, which is a written and limited order for a scope of work and is issued under the "On-Call" Consultant Contract, does not require Change Order Committee action.

Staff shall have the following Task Order authorities:
Project Manager – Change by an amount up to $10,000 and up to and through 10 calendar days.
Section Head – Change by an amount up to $25,000 and up to and through 60 calendar days.
Division Head – Change by an amount up to $100,000 and up to and through 120 calendar days.

Task Orders that exceed $100,000 or 120 calendar days require the Change Order Committee to approve the task order. The Change Order Committee can approve extensions with a "no time limit" cap, if it is a no cost change.

C. Change Orders that increase the total expenditure commitment from the informal to formal procurement limit are subject to approval through the formal contract award process as required in Section 26 "Award of Contract".

D. Any single Change Order(s) of $50,000 or more for any contract previously approved by council shall be sent with a recommendation from the change order committee to council for final approval.

E. A Contractor may proceed with approved work only upon receipt of a fully executed Change Order and direction of the Purchasing Agent or Project Manager. Due to extenuating circumstances, confirming Change Orders are allowed upon Project Manager's and Director's approval.

F. The City's Project Manager shall be responsible for routing of the change order form and obtaining Contractor approval. One (1) original of the completed and approved Change Order(s) shall be included in the contract file maintained by the Purchasing Agent. Copies shall be sent to Purchasing immediately after all applicable reviews and approval.

G. For contract documentation purposes, a copy of any Change Order shall be sent to the Purchasing Office for inclusion in the procurement file. ~~A~~ memo citing the original Purchase Order number shall be attached to the Change Order to authorize increase/decrease to the encumbrance on the purchase order by the amount needed to make the new contractual commitment.

Section 25.2 Change Order Thresholds

A. Contract Allowance - Contract Allowances (CA) shall only be included for design/bid/build construction project delivery methods that utilize a formal solicitation, involving design and construction contracts for recommendation of award by City Council. CA of up to 5%, 7.5% or 10%, shall be based on the contract amounts referenced below, and may be added to all design/bid/build design and construction contracts based on the Engineer's estimate or the respondent's bid, whichever is lowest.

Contract Amount*	Contract Allowance
Over $1,000,000 in value	Up to 5%
From $250,000 to $1,000,000	Up to 7.5%
Below $250,000	Up to 10%

B. Administrative Change Orders – Administrative Change Orders (ACO) may only be included for design/bid/build construction project delivery methods that utilize a formal solicitation, involving design and construction contracts for recommendation of award by City Council. Construction Manager at Risk and Design/Build construction project delivery method contracts shall not include an ACO. The use of ACO is applicable when a Council approved CA dollar amount has been fully expended and additional funds are necessary to cover unanticipated Change Orders. When ACOs are deemed appropriate, the ACO percentage can be up to 10% of the total contract less the Contract Allowance amount. The ACO shall not exceed $500,000.

C. Owner's and Contractor's Contingencies – The use of an Owner's (city) and Contractor's Contingency shall only be allowed for Construction Manager at Risk and Design/Build contracts. these Contingencies are negotiated during this procurement process.

D. Justification Documentation – If a Contract Allowance (CA), Administrative Change Orders (ACOs) or Owner (city) and Contractor Contingency is recommended for a construction project, the Project Manager shall complete a "CA/ACO/Contingency Justification Form" for review and approval by the section or division head. The form shall include details to why the recommendation is being made including estimated cost for each request. This form shall be attached to the staff summary for Council review.

E. Summary of Change Order Thresholds – The following matrix illustrates the use of Contract Allowance, Administrative Change Orders, and Owner and Contractor Contingency and which of the construction project delivery methods each of these are applicable to:

Type of Construction Project Delivery Method	Contract Allowance	Change Order Authority (*)	Owner Contingency	Contractor Contingency
Design/Bid/Build: Formal Solicitations	Percentage Based on Contract Amount, with Justification	Up to 10%, with Justification	Not Allowed	Not Allowed
CMAR: Request for Statements of Qualifications	Not Allowed	Not Allowed	Negotiated	Negotiated
Design/Build: Request for Statements of Qualifications	Not Allowed	Not Allowed	Negotiated	Negotiated

*Not to exceed $500,000

Section 25.3 Change Order Committee

The Change Order Committee Members will consist of the following:

1. Public Works Director or designee
2. Water Services Director or designee
3. City Attorney or designee
4. City Engineer or designee
5. Purchasing Director or designee

Three committee members must be present for the meeting to occur. Signatures of absent committee members may be obtained at a later time.

A. The City Manager shall designate a Chair who shall preside over all the meetings, establish agendas, and distribute meeting minutes. The change order committee meetings are open to the public but are not formal public meetings for open meeting law purposes.

B. The Change Order Committee will meet at a time agreed upon by the members in the council conference room, or other location identified in the agenda.

C. An electronic copy of all Change Orders should be submitted to the Committee Chair by noon on Monday to be scheduled for the following Thursday's meeting. However, urgent requests may be brought before the Change Order Committee as walk-on items.

D. Three original Change Orders signed by the Project Manager and Department Head shall be given to the Committee Chair after the Change Order has been approved. The Committee Chair will obtain all other necessary signatures including the contractor or consultant and distribute copies to the Project Manager.

ARTICLE 26 AWARD OF CONTRACT

The City Council shall award all contracts for materials, services and construction that meet or exceed the formal procurement limit as set forth in Article 7(B), "Formal Procurement Limit." The Purchasing Director shall award all contracts less than the formal procurement limit.

Section 26.1 Notice of Intent to Award

A. Contracts requiring Council award shall be summarized in a staff summary and posted for at least five days on the City's website prior to award.

1. After Council award, Purchasing shall issue a Notice of Award, along with any associated supplemental Agreement. The Notice of Award shall require that all applicable documents (e.g., insurance certificates, performance and payment bonds and signed Agreement) be submitted to the City within ten (10) days.

2. The Purchasing Agent shall issue a Notice to Proceed for construction and service contracts upon receipt of the, insurance certificates, signed agreement and any applicable bid, performance and payment bonds.

ARTICLE 27 SPECIFICATION GUIDELINES

The Director shall establish guidelines governing the review and approval of specifications for materials, services and construction required by the City as secured through the formal or informal procurement process.

Section 27.1 Content of Specifications

The Director shall establish guidelines governing the content of specifications used in City procurements to ensure adequate competition.

Section 27.2 Samples/Demonstrations

A. Samples of materials, when required during the solicitation process, shall be submitted in accordance with the instructions in the solicitation.

B. Samples shall be furnished, free of charge, to the City submitted with the solicitation and must be accompanied by descriptive memorandum.

C. Bid samples may be held for comparison with deliveries pursuant to a contract award.

D. Samples will be returned according to the time frame included in the solicitation at the Bidder's risk and subject to his expense. The City will not reimburse the vendor for any expendable/consumable items that were consumed during the bid evaluation process.

Section 27.3 Specification Approval

The Purchasing Agent retains the authority to approve or disapprove all specifications to be used in a solicitation.

Section 27.4 Specifications Guidelines

A. A specification may provide alternate descriptions of materials, services, or construction items where two or more design, functional, or performance criteria will satisfactorily meet the City's requirements.

B. To the extent practicable, a specification shall not include any solicitation term or condition, or any contract term or condition.

3. To the extent practicable, if a specification for a common or general use item has been developed, or a qualified products list has been developed for a particular material, service, or construction item, it shall be used.

D. To the extent practicable, specifications shall emphasize functional or performance criteria. When using performance specifications all brands bid shall be evaluated after receipt of bids to determine those meeting specifications.

E. To the extent practicable, specifications shall be written as minimum standards.

F. Unless otherwise specifically stated in the solicitation, any equipment or materials specified shall be standard, new, and state-of-the-art in quality and design, and shall comply fully with all applicable federal and Arizona laws and regulations.

Section 27.5 Maximum Practicable Competition; Brand Name or Approved Alternate; Qualified Products List

A. ***Maximum Practicable Competition***. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be unduly restrictive.

1. To the extent practicable and unless otherwise permitted by this section, all specifications shall describe the City's requirements in a manner that does not unnecessarily exclude a specific material, service or construction item.

2. Proprietary or brand name specifications shall not be used unless the Director determines in writing that such specifications are required and demonstrate technological justification and that it is not practicable or advantageous to use a less restrictive specification.

3. To the extent practicable, the City shall use accepted commercial specifications and shall procure standard commercial materials and avoid proprietary specifications whenever practicable.

B. ***Brand name or approved alternate***. A brand name or approved alternate specification shall only be used when the Director determines in writing that use of a brand name or approved alternate specification is advantageous to the City and the solicitation provides for the submission of equivalent products. The solicitation document shall state that “the City reserves the right to determine what is considered an equivalent product.”

1. A brand name or approved alternate specification shall designate as many different brands as are practicable or approved alternate specifications.

2. A brand name or approved alternate specification shall include a description of the particular design, functional, or performance characteristics that are required, unless the Director determines in writing that the essential characteristics of the brand names designated in the specifications are commonly known.

3. A solicitation that uses a brand name or approved alternate specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.

C. ***Qualified products list***. A qualified products list may be prepared and utilized, if the Purchasing Agent determines in writing that testing or examinations of the material or construction items prior to the issuance of the solicitation is desirable or necessary in order to best satisfy the City's requirements. As many potential suppliers as practicable shall be solicited to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The qualified products list shall not be modified after the solicitation is issued.

Section 27.6 Inspections and Tests

A. The inspection or testing of any material to verify specification adherence or qualify for a products list, shall be performed in a manner established on a case by case basis.

B. If testing is required, the requirements shall be included in the solicitation.

C. The City reserves the right to require testing or inspection by a recognized testing laboratory or consultant selected by the City.

D. The cost of testing or inspection shall be borne by the Bidder submitting a bid for the products the City is requesting.

Section 27.7 Proprietary Specifications

Proprietary specifications are not justified by past success in performance, the inconvenience of writing specifications, or the desire to maintain a single brand that is not supported by technological justification.

Section 27.8 Product Testing Guidelines

City Staff may test materials or services in a manner agreed upon with the material or service supplier provided the following guidelines are applied:

A. City Staff is not required to test solely for supplier’s benefit;

B. City Staff may not accept materials for testing unless those materials have been purchased through purchasing procedures provided by this Procurement Code Manual;

C. Any testing shall be at the direction and convenience of City staff;

4. The City's name may not be used by any person in connection with any advertising sale, or promotion of any product tested by the City staff; and

E. Any materials testing shall be pursuant to industry standard testing of materials and a written testing agreement shall be in place between the City and the supplier. The Director must be notified of all testing agreements prior to commencement of testing.

Section 27.9 Specifications Prepared by Architects; Engineers; Consultants

All specifications prepared for City contracts shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be unduly restrictive. In the event that suitable specifications cannot be developed by City staff, the Director may retain a specification consultant for the purpose of assisting with the writing of the specifications. The consultant shall be selected pursuant to either Section 7.1, "Informal Procurement Process", or Article 11, "Formal Procurement Process—Request for Proposals".

Section 27.10 Preparation of Specifications by Persons Other than City Personnel

A. The City may contract for the preparation of specifications with persons other than City personnel including, but not limited to, consultants, architects, engineers, designers, manufacturers, and others.

B. The requirements of Article 27, "Specifications Guidelines" shall apply to all specifications prepared by vendors, including, but not limited to, those prepared by consultants, architects, engineers, designers, and other draftsmen of specifications for public contracts. Contracts for the preparation of specifications by other than City personnel shall require the specification writer to adhere to such requirements.

C. The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which the specification was prepared nor is the preparer eligible to supply any product to a Bidder or Proposer on the solicitation for which the specification was prepared; provided however, the Director may make an exception to this provision when justified by the business practices of the applicable industry or it is otherwise in the best interest of the City. The Purchasing Agent shall place in the solicitation file, a written determination, including all relevant facts in any case where an exception is made.

D. The terms and conditions of contracts for preparation of specifications shall reference the rule in Subsection C above.

Section 27.11 Recycled and energy consumptive materials; life cycle costing; environmental procurement.

Guidelines shall be established governing the review and approval of specifications for the procurement of selected materials based on considerations of recycling, energy conservation, life cycle costing and other environmental considerations.

Section 27.12 Environmental/Sustainable Procurement Policy

A. A Sustainable Purchasing Policy, hereinafter referred to as Policy, has been established to ensure the procurement of products and services that reduce the consumption of resources and the production of waste, minimize adverse health effects and reduce costs to the City.

The principles of the Policy are rooted in resource efficiency, life cycle perspective, and pollution prevention. Resource efficiency incorporates preference to reusable content and recycled materials over virgin materials, as well energy and water conservation. Life cycle perspective considers the environmental impact of a product or service over its lifetime (raw material extraction, manufacturing, packaging, transport, energy consumption, maintenance and disposal). Pollution prevention incorporates processes and practices that prevent the creation of pollution and wastes, rather than managing these after they have been created.

The Policy requires the City to:

1. Strongly promote the purchase and use of materials, products and services that are fiscally responsible, reduce resource consumption and waste, promote local business opportunities, and promote human health and well-being.
2. Minimize the consumption of non-replaceable natural resources by reviewing current and proposed future usage and evaluating the pros and cons of alternatives.

3. Maximize the reuse and recycling of materials. Require a minimum 50% post-consumer waste recycled content for paper. Require recyclability of products in compliance with the City's recycling program, reusability, and performance consistent with City standards to the extent practicable.

4. Use and require contractors and consultants to use products manufactured with maximum practical amount of recovered material, especially post-consumer material.

5. Stimulate demand for products and services supporting the Policy by letting manufacturers and suppliers know the performance the City expects.

B. The Sustainability Program staff shall provide support to Purchasing and Division Staff in their efforts to meet the requirements of the Policy.

C. Procedures and Guidelines may be established as necessary to ensure the continuation of a strong Sustainable Procurement Program.

ARTICLE 28 DISPOSITION OF SURPLUS PERSONAL PROPERTY

A. *Surplus Personal Property Disposition*

The City Council or designee, may sell, trade, transfer between offices, Divisions or otherwise dispose of surplus personal property pursuant to Article 8, "Contracts", Sections 4, "Transfer and Sale of property Within City Government", and Section 10, "Sale of City Property", number 1 and 3 of the Flagstaff City Charter. Each sale shall be made to the highest responsible Bidder after published notice of the sale in accordance with the following schedule:

1. Informal Process: Personal property having a value of $500.00 or less may be sold without published notice, but written advice of such sale or disposal shall be given to the City Council.

2. Formal Process: Personal property valued in excess of $500.00 shall be sold after published notice of the sale for at least once, but not less than five (5) days prior to the published notice. .

2.1 All personal property disposition under a formal process, shall be sold by public on-site auction, public on-line bidding process or through a formal competitive sealed bid sale process.

2.2 Any surplus property shall be sold through a formal competitive sealed bid sale, when it is more advantageous to the City than holding it for public on-site auction or public on-line bidding.

2.3 All formal sealed bid sales shall be conducted in a manner substantially similar to the procedures established in Article 10, "Formal Procurement Process—Invitation For Bids" and shall include a description of the property for sale and all terms and conditions applicable to the sale.

2.4 Public notice of any sealed bid sale shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of the bids.

2.5 Any surplus property sold under this formal competitive sealed bid sale process, shall be sold to the person making the highest responsive, responsible, offer most advantageous to the City.

Property seized during the course of a police investigation shall not be subject to this Procurement Code Manual until such time as any State and Federal laws have been complied with and the property is declared surplus by the Police Department.

B. *Declaration Regarding Surplus Property*

The disposition of all City owned surplus property shall be determined and handled by the City's Central Warehouse. Divisions shall be responsible for property in their possession and as necessary, may declare such property as surplus and shall complete a surplus property form with all required signatures. This form is available on the City of Flagstaff CityNet and shall accompany all items taken to the Warehouse as surplus property and need to reflect whether the item(s) are operational or not, so the information can be given to Bidders.

Section 28.1 Organizational Need

Prior to pursuing any method for disposal of surplus property, the Division or end-user shall first determine that it is of no use to any other Division. Divisions shall review inventories of personal property to determine the existence of excess or obsolete items that could be declared surplus property and shall notify the Central Warehouse Manager.

Section 28.2 Surplus Property Listing

A listing of surplus property shall be maintained by each Division and such property shall be transferred between Divisions as needed prior to any other disposition method handled by the Central Warehouse. The Central Warehouse shall maintain a surplus property list of all items that

are located at the Central Warehouse and scheduled to be sold either through a public on-site auction or public on-line bid sale.

Section 28.3 Surplus Property Trade-In Allowance

Prior to trading for credit against a new purchase or service, the Purchasing Agent shall determine the fair market value and document the disposal in the surplus item file with reference to the Purchase Order for the new materials or services.

Section 28.4 Proceeds From Sales

All proceeds from the sale of surplus property shall be deposited in an established revenue account of the City determined by the Finance Director.

Section 28.5 Donation of Surplus Property

Surplus personal property may be donated to organizations in exchange for services that would benefit the local Flagstaff community, where such value would exceed the revenues generated from a sale through an auction or sealed bid, as determined in writing by the Director. For donations valued in excess of $50.00, the receiving organization shall execute a receipt or contract according to how the donation will be used. Any donation, exceeding $500.00 in value, shall be approved by the City Council.

ARTICLE 29 PROTESTS

An actual or prospective Bidder or Proposer, who is aggrieved in connection with the solicitation or award of a contract, may protest any aspect of a solicitation prior to award of a contract.

Section 29.1 Time for Filing Protests

A. Protests based upon alleged improprieties in a solicitation that are apparent before the solicitation due date shall be filed not less than five (5) working days before the solicitation due date. Contracts shall be final and no protest pursuant to this section may be filed after award.

B. In cases other than alleged improprieties in a solicitation, protests shall be filed within ten (10) days after the aggrieved person knows or should have known the facts and circumstances upon which the protest is based. However, in no event, shall the protest be filed later than ten (10) days after issuance of notification of award.

Section 29.2 Filing of a Protest

A. A protest shall be submitted, in writing, to the Director and shall include the following information:

   1. The name, address, telephone number and e-mail address of the Protestant;

   2. The signature of the Protestant or its representative;

   3. Identification of the solicitation and contract number;

4. A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and

5. The form of relief requested.

B. The Director, without waiving the City's right to dismiss the protest for lack of timeliness, may consider any protest that is not filed timely.

C. The Director shall give notice of the protest to the successful vendor if award has been made, or if no award has been made, to all actual or prospective Bidders or Proposers.

D. The Director shall review the formal protest and issue a written ruling within fourteen (14) days of receiving the formal protest in accordance with Section 29.1, "Time for Filing Protests", and Section 29.2, "Filing of a Protest". The Director may also give notice of the ruling to any other persons involved in the solicitation whose interests may be affected by the ruling requested from the Director.

Section 29.3 Stay of Procurements During the Protest

In the event of a timely protest under Section 29.1, "Time for Filing Protests", the City may proceed further with the solicitation or with the award of the contract unless the Director makes a written determination that there is a reasonable probability that the protest will be sustained or that the stay of procurement is not contrary to the substantial interests of the City.

Section 29.4 Confidential Information

A. Material submitted by a Protester shall not be withheld from an interested party except to the extent that the withholding of information is permitted or required by law or as determined pursuant to Procurement Code Manual provisions for confidential material.

B. If the Protester believes the protest contains material that should be withheld, a statement advising the Director of this fact shall accompany the protest submission.

Section 29.5 Remedies

A. If the Director sustains the protest in whole or part and determines that a solicitation or proposed contract award does not comply with the procurement statutes and regulations, the Director shall implement an appropriate remedy.

B. In determining an appropriate remedy, the Director shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement process, the good faith of the parties, costs to the City, the urgency of the procurement and the effect of the relief.

C. An appropriate remedy may include one or more of the following:

1. Reissue the solicitation and award a contract consistent with this Procurement Code Manual; or

2. Such other relief as is determined necessary to ensure compliance with the City Charter, City ordinances and/or this procurement Code Manual.

ARTICLE 30 SUSPENSION, DEBARMENT

A. The Director may suspend or debar any person from consideration for award of a contract pursuant to this Procurement Code Manual. Suspension of any person shall not exceed six (6) months. A debarment shall not exceed three (3) years.

B. The causes for suspension or debarment may include, but are not limited to, the following:

1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the Federal Government, this State or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a City contractor.

3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.

4. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:

a. Knowingly failing without good cause to perform in accordance with the specifications or within the time limit provided in the contract.

b. Failure to perform or unsatisfactory performance in accordance with the terms of a contract, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

5. Any other cause deemed to affect responsibility as a City contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause listed in the established rules.

C. Before imposing a suspension or debarment, the Director shall give the affected party written notice of the grounds for suspension or debarment and shall afford such person an opportunity for hearing.

Section 30.1 Resolution of Contract Controversies - Materials, Services and Construction Contracts

A. The Purchasing Agent and the end-user shall have the authority and responsibility to enforce all performance and terms under all contracts where they are named as Administrator.

B. If any issue regarding performance under the contract cannot be resolved by mutual agreement between the Purchasing Agent/end-user and the Vendor/Contractor shall, through the City Attorney's Office, pursue resolution as provided in the terms of the original contract or under applicable law. The Purchasing Agent shall prepare a written decision informing the vendor of the required performance**.**

1. Final written decision shall include:

   a. A description of the controversy;

   b. A reference to the pertinent contract provision;

   c. A statement of the factual areas of agreement or disagreement;

   d. A statement of the decision, with supporting rationale; and

   e. Instructions for appeal

After preparation of the decision, the Contract Administrator shall send the decision to the Director who shall deliver the decision to the Vendor/Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

C. If the Vendor/Contractor fails to comply with all terms of the notice of final decision, the Vendor/Contractor may be declared in default and the contract may be terminated based upon the review and procurement/legal opinion from the Director and City Attorney's Office.

The Vendor/Contractor may be suspended or debarred under the provision of Article 31, "Suspension, Debarment". The Director may render a decision for the suspension and debarment of the Vendor/Contractor if violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:

a. Knowingly failing without good cause to perform in accordance with the specifications/scope of work or within the time limit provided in the contract.

b. Failure to perform or unsatisfactory performance in accordance with the terms of a contract, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the Vendor/Contractor shall not be considered to be a basis for debarment.

ARTICLE 31 ARIZONA CERTIFIED NON-PROFIT BUSINESSES THAT SERVE OR EMPLOY INDIVIDUALS WITH DISABILITIES

A. The City may purchase or contract for any products, materials, and services directly from Arizona Certified non-profit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials, or services meet the City's reasonable requirements, as determined by the Director and the requesting department.

B. The City may set aside, at minimum, a percentage of its purchases or contracts for any products, materials and services directly from Arizona certified non-profit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials, or services meet the City's reasonable requirements, as determined by the Director and the requesting department.

11. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Martin Ince, Multi-Modal Planner
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Adoption of Resolution No. 2023-41: A resolution of the Flagstaff City Council adopting amendments to the Active Transportation Master Plan

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2023-41 by title only
2) City Clerk reads Resolution No. 2023-41 by title only (if approved above)
3) Adopt Resolution No. 2023-41

Executive Summary:

This resolution will adopt a series of amendments to the City's Active Transportation Master Plan (ATMP), which was adopted by the City Council by resolution on November 1, 2022. The proposed modifications include updating pedestrian and bicycle crash data that was used as background information for the plan, adding safety as an explicit factor in consideration and prioritization of pedestrian and bicycle projects, setting a target of zero pedestrian and bicyclists deaths and serious injuries, and highlighting four corridors as potential complete street conversions. The amendments will help make the City eligible for federal Safe Streets for All (SS4A) grant funding. The City intends to submit an SS4A grant application for a complete street conversion project along Butler Avenue.

Financial Impact:

Adoption of proposed amendment to the ATMP will not have a direct financial impact on the City. The ATMP helps guide City capital expenditures, through identification and prioritization of a variety of pedestrian and bicycle projects to be built over the next 20 years with funding from the transportation sales tax (Prop 419) and First Mile Last Mile grant. The plan also positions the City to pursue grants and other opportunities to build walking and biking infrastructure. In this case, the amendments will help support a grant application for a complete street conversion along Butler Avenue.

Policy Impact:

The ATMP serves as a guide for enhancing walking and biking by making them more useful, comfortable, safe, attractive and convenient as modes of transportation. Over the years, a variety of City of Flagstaff plans and policy documents have highlighted the importance of walking and biking, starting with the Flagstaff Regional Plan. The ATMP advances the City's vision and goals for walking and biking by providing direction and details on becoming a more pedestrian- and bicycle-friendly community.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe & Healthy Community
Foster a safe, secure, and healthy community

Inclusive & Engaged Community
Advance social equity and social justice in Flagstaff
Enhance community outreach and engagement opportunities
Ensure city facilities, services, and programs are accessible for all residents

Sustainable, Innovative Infrastructure
Deliver outstanding services to residents through a healthy, well maintained infrastructure system
Utilize existing long-range plan(s) that identify the community's future infrastructure needs and all associated costs
Identify smart traffic management, multi-modal transportation, and alternative energy opportunities

Livable Community
Provide amenities and activities that support a healthy lifestyle

Environmental Stewardship
Implement sustainable building practices and alternative energy and transportation options
Implement, maintain and further the Climate Action and Adaptation Plan (CAAP)

Carbon Neutrality Plan

Goal: Decreased Dependence on Cars
Strategies:
DD-1: Encourage vibrancy, appropriate density, and attainability in existing neighborhoods, so that more residents live within walking distance of their daily needs.
DD-2: Create inclusive networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient for people of all ages.
DD-3: Encourage Flagstaff residents and visitors to walk, bike, roll and take the bus.

Regional Plan

Goal T.1. Improve mobility and access throughout the region.
Goal T.2. Improve transportation safety and efficiency for all modes.
Goal T.4. Promote transportation infrastructure and services that enhance the quality of life of the communities within the region.
Goal T.5. Increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community.
Goal T.6. Provide for bicycling as a safe and efficient means of transportation and recreation.
Goal T.7. Provide a high-quality, safe, convenient, accessible public transportation system, where feasible, to serve as an attractive alternative to single-occupant vehicles.

Has There Been Previous Council Decision on This:

On November 1, 2022, the Council approved Resolution No. 2022-50, which adopted the current version of the Active Transportation Master Plan.

Background/History:

The proposed amendments to the ATMP were reviewed by the City's Pedestrian Advisory Committee and Bicycle Advisory Committee at their regular meetings on June 8 and June 1, 2023. Both committees unanimously approved a motion to recommend approval of the amendments to the Transportation Commission. At their June 7, 2023 meeting, the Transportation Commission voted to recommend the amendments to the City Council.

Key Considerations:

The ATMP is intended to provide policy guidance to advance the transportation goals and vision of the Regional Plan, establish specific goals and strategies to support and promote walking and biking, and identify and prioritize needed pedestrian and bicycle infrastructure.

The proposed amendments are shown in orange text and strike through in the attached draft and include the following:

- Updates a report on pedestrian and bicycle crashes that provided background information for the ATMP. The revised report includes the most-recent five years of crash data, from 2017 to 2021. (Chapter 1, page 6)
- Amends the ATMP's safety targets to include serious injury crashes in addition to fatal crashes. The amended ATMP will set a target of zero pedestrian and bicycle fatalities and serious injury crashes within the next five years. (Chapter 4, pages 25-26)
- References safety as one of the factors used in prioritization of planned walking and biking infrastructure. (Chapter 8, page 66)
- Includes a link to the online ATMP ped and bike infrastructure map. (Chapter 8, page 69)
- Adds a section under Chapter 6 Infrastructure Recommendations for "complete street conversions" and identifies four potential complete street corridors: Milton Rd, Butler Ave, Fourth St, and Cedar Ave. (Chapter 8, pages 78-79)

These amendments will help qualify the ATMP as a "safety action plan" and make the City eligible for Safe Streets for All (SS4A) grant funding. SS4A is a federal grant program for plans, programs, and projects that prevent roadway deaths and serious injuries. To be eligible for SS4A funding for infrastructure projects, the City must have in place a safety action plan that meets the minimum criteria set forth in the grant program. The ATMP generally meets the minimum criteria, in conjunction with the Southside Community Specific Plan and MetroPlan's Regional Strategic Safety Plan; however, the plan's eligibility is strengthened by the proposed amendments.

The City is currently preparing an SS4A grant application for submittal by the July 10, 2023 deadline for a complete street conversion along Butler Avenue between Milton Rd and Sawmill Rd. The project will include elevating the bike lanes to the level of the sidewalk, constructing three protected intersections, adding or upgrading two pedestrian/bicycle beacon crossings, and adding a parkway and wider sidewalk where ROW permits.

Community Benefits and Considerations:

Walking and biking support a variety of community benefits, both directly and indirectly, including health, safety, mobility, equity, environmental stewardship, housing attainability, economic vitality, community character, and sustainability.

The proposed amendments advance the ATMP - and walking and biking - by making safety an explicit factor in project prioritization, and by highlighting corridors that are candidates for complete street conversions. These modifications to the plan also help the City qualify for federal SS4A grant funding.

Community Involvement:

The community was engaged in the preparation of the ATMP in a number of ways, including numerous community meetings and surveys. The proposed amendments were considered at the regular meetings of the Transportation Commission, Pedestrian Advisory Committee, and Bicycle Advisory Committee, all of which are open and advertised as public meetings.

Attachments: Res. 2023-41
Draft Amended Active Transportation Master Plan
Presentation

RESOLUTION NO. 2023-41

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, ADOPTING AMENDMENTS TO THE ACTIVE TRANSPORTATION MASTER PLAN

RECITALS:

WHEREAS, walking and biking are important to Flagstaff, and the Flagstaff community is supportive of active modes of transportation; and

WHEREAS, the Active Transportation Master Plan, which was adopted by the City Council by Resolution No. 2022-50 on November 1, 2022, is intended to provide policy guidance to advance the transportation goals and vision of the Regional Plan, establish specific goals and strategies to support and promote walking and biking, and identify and prioritize needed pedestrian and bicycle infrastructure; and

WHEREAS, the proposed amendments promote safety in consideration of pedestrian and bicycle projects, establish a target of zero pedestrian and bicyclist deaths and serious injuries, highlight four corridors as potential complete streets, and support future grant applications for complete street conversion projects; and

WHEREAS, active transportation supports other City objectives and values, including carbon neutrality and sustainability, equity and inclusivity, economic vitality, public health and safety, housing attainability, open space and recreation, community and neighborhood character, and quality of life.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: The City of Flagstaff hereby adopts the amended Active Transportation Master Plan, attached hereto as Exhibit A.

SECTION 2: That the Mayor and City Council hereby commit to implementation of the polices and strategies detailed in the Active Transportation Master Plan to achieve its stated goals.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Active Transportation Master Plan

City of Flagstaff



Active Transportation Master Plan

October 2022
Draft amendments June 2023

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

www.flagstaff.az.gov/atmp

Adopted by the Flagstaff City Council
November 1, 2022
Resolution No. 2022-50

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0 The ATMP at a glance

Plan summary

The Active Transportation Master Plan (ATMP) is a guide to enhancing walking and biking in Flagstaff. The ATMP includes detailed information regarding pedestrian and bicycle accommodation, and establishes a series of goals, policies, and strategies to support walking and biking.

1 Introduction

The first chapter is intended to establish a foundation for the ATMP, including the intent of the plan, its policy context, how it was developed, and how it will be used. The introduction closes with a list of guiding principles for walking and biking and a recommended shift in our approach to transportation planning.



2 Current conditions

Current conditions provides an accounting of the current status of walking and biking in Flagstaff based on existing facilities, pedestrian and bicycle mode share, crash data, and national indicators. This chapter also describes the challenges and highlights the unique opportunity for walking and biking in Flagstaff.

3 Goals and policies

Specific goals for walking and biking are established in this chapter to provide policy support and help guide the City's actions. The second part of this chapter lists a series of 32 policies, organized around six topics: infrastructure, maintenance and operations, support and encouragement, safety, transportation and land use planning, and evaluation.

4 Outcomes, indicators, and targets

Outcomes are the desired results that follow from implementation of the ATMP, while indicators are measures that show the extent to which outcomes are being achieved. This chapter also sets

short- and long-term targets to attain for mode share, pedestrian and bicycle crashes, and national recognition.



5 Implementation

This chapter describes a broad range of opportunities for implementation of the recommendations and projects in the ATMP. This section also lists four priority actions to undertake in the first year, and another nine actions for the first five years.

6 Planning considerations

Planning considerations cover a general discussion of how planning for pedestrian and bicycle accommodation fits into the larger contexts of transportation and land use planning.

7 Design guidance

Chapter 7 examines the impact of street and intersection design on walking and biking, and provides general information on design features for pedestrian and bicycle accommodation.

8 Infrastructure recommendations

The final chapter provides recommendations and a plan for walking and biking infrastructure, including sidewalks, at-grade crossings, grade-separated crossings, bikeways, and FUTS trails. This chapter also describes the prioritization methodology for new pedestrian and bicycle projects.

Appendix A Policies and strategies

Includes a detailed list of strategies and actions to promote walking and biking for each of the 32 policies set forth in Chapter 3.

Appendix B Common acronyms

A list of acronyms used in this document and in transportation planning in general.

1 Introduction

The City of Flagstaff's Active Transportation Master Plan (ATMP) is intended to serve as a detailed guide to enhance walking and biking in Flagstaff.

Walking and biking are important to Flagstaff, and the Flagstaff community is very supportive of walking, biking, transit, and active modes of transportation in general. Walking and biking are critical elements of mobility and a robust transportation system, and vital to achieving social, economic, health, environmental, and sustainability goals for the community.



Over the years, a variety of City of Flagstaff plans and policy documents have highlighted the importance of walking and biking, starting with the Flagstaff Regional Plan 2030. However, none have provided specific details or direction on how to become a more pedestrian- and bicycle-friendly community. This document provides those details and that direction.

Intent of this plan

The ATMP is intended to serve several primary functions:

- **The Big Shift**. The ATMP promotes a fundamental change in our approach to mobility and transportation planning – introduced in the Flagstaff Carbon Neutrality Plan as the Big Shift – away from a model that prioritizes automobiles and vehicular travel and towards a broader process that promotes walking, biking, and transit and supports other community goals and values. This Big Shift approach is further detailed under Approach at the end of this introduction.

- **Policy support**. Goals and policies listed in Chapter 3 of this document establish specific policy support for active transportation to build on the goals and policies already in the Regional Plan.

- **Goals, policies, and strategies**. The document includes a list of recommended strategies which

identify a range of actions the City can take to support and promote walking and biking.

- **Pedestrian and bicycle infrastructure**. Missing and needed pedestrian and bicycle facilities, including sidewalks, bikeways, FUTS trails, and crossings, have been inventoried and prioritized as part of this document. This helps to establish a program of pedestrian and bicycle infrastructure projects to include in the City's capital planning process.

- **Planning and design guidance**. The ATMP includes detailed design and planning guidance to enhance the functionality of our transportation system and support active transportation.

Policy context

The City already has several adopted plans and policy documents that address transportation in general, as well as walking and biking more specifically. These documents provide the policy context for the ATMP.

Flagstaff Regional Plan 2030

The Flagstaff Regional Plan 2030, which was adopted by the City Council and ratified by Flagstaff voters in 2014, is a high-level policy document that covers a variety of topics regarding the future development of Flagstaff. The Transportation Element (Chapter X) of the Regional Plan describes an overall vision for transportation in Flagstaff, as well as goals and policies needed to achieve that vision. These goals and policies are the starting point for the ATMP.

Regional Plan 2030 vision for transportation

In 2030, people get around to where they need to be in an efficient and safe manner, and more people ride the bus, their bikes, and walk, reducing emissions and increasing health.

In 2022, the City and County initiated the process to update the current Regional Plan. The revised plan – Flagstaff Regional Plan 2045 – is anticipated to be completed in 2025.

Flagstaff Carbon Neutrality Plan

In June 2020, the Flagstaff City Council adopted Resolution 2020-09, which declared a climate emergency in Flagstaff and calls for a dramatic shift in our ambition and action to combat climate change. The Council subsequently adopted the Carbon Neutrality Plan in June 2021 and established a goal for carbon neutrality – a 100 percent reduction in emissions – by the year 2030.

In Flagstaff, the transportation sector is responsible for 30 percent of greenhouse gas emissions, primarily from passenger vehicle emissions. As a result, achieving the carbon neutrality target established in the Carbon Neutrality Plan will require extensive changes in our transportation policies and practices. Decreasing dependence on automobile use is one of the core target areas of the Carbon Neutrality Plan: the plan calls for

Flagstaff Carbon Neutrality Plan target area

Decreased Dependence on Cars
Flagstaff will transform our transportation and land use systems so that we depend far less on cars, reducing vehicle miles traveled (VMT) and shifting trips to walking, biking, and the bus.

aggressive action to shift away from car-dependent planning and transportation design and to focus more resources on supporting walking, biking, and transit.

How this plan is used

This section describes how the ATMP should be used in conjunction with other plans, projects, and processes.

- **Plans and policy documents**. As a City policy document, the ATMP and its contents should be considered in planning processes and reflected as appropriate in other City plans, including the Regional Plan and specific, neighborhood, and master plans. The ATMP can also be considered as part of transportation plans prepared by MetroPlan, Coconino County, the Arizona Department of Transportation (ADOT), and Northern Arizona University (NAU).

- **Capital planning and programming**. The ATMP inventories and sets priorities for an extensive list of specific pedestrian and bicycle projects, which will be included in the City's five-year capital planning program.



- **Budgeting and work programs**. Recommended policies and strategies in the ATMP can be part of the City's performance-based budgeting process and incorporated into budget requests, strategic plans, and work programs.

- **Regulatory documents**. The ATMP itself does not create any new enforceable standards or regulations; however, it can be used to identify revisions to the Zoning Code, Engineering Standards, and other applicable regulatory documents to implement the ATMP.

- **Private development review**. The ATMP does not create any new standards or requirements for private development. Developers are encouraged to consider the ATMP when planning their development but are not required to demonstrate conformance. Design guidelines can be a reference for pedestrian and bicycle accommodation but are not compulsory.

- **City capital projects**. Planning considerations and design guidelines in this document can

serve as a guide for best practices when pedestrian and bicycle facilities are included as part of other City capital projects, such as roadway projects.

How this plan was developed

Content and recommendations in the ATMP were formulated based on a variety of sources, including extensive public engagement, dating back to 2014.

- **Background information**. A variety of data was collected to provide supporting information on a variety of topics:
  - Existing plans and policies regarding walking and biking
  - Mode share information and trends
  - Pedestrian and bicycle crash data
  - General active transportation resources

- **Community surveys**. Since 2016, a total of 15 community surveys related to walking and biking have been conducted. Some were done specifically for the ATMP, while others were done for other projects but include relevant information.

  Direct surveys
  - ATMP Community Survey (2022)
  - PedBikeWays Survey (2018)
  - Goals and Strategies Survey (2017)
  - Milton Road Walking and Biking Survey (2016)
  - Pedestrian and Bicycle Project Survey (2016)
  - Walking and Biking Survey (2016)

  Related surveys
  - Butler-Beaver Separated Bike Lane Pilot Community Survey (2022)
  - MetroPlan Stride Forward Online Survey #2 (2022)
  - MetroPlan Stride Forward Online Survey #1 (2022)
  - MetroPlan Transportation Values Random Sample Survey (2022)
  - City of Flagstaff Resident Survey (2021)
  - Bicycle Friendly Community Survey (2019)
  - Flagstaff Trails Initiative - Trails Survey (2018)
  - RTP Surveys - Walking and Biking Results (2018)
  - FUTS Trail Users Survey (2017)

- **Public engagement**. City staff have conversed with hundreds of residents about pedestrian and bicycle issues at numerous community events, including Earth Day, Bike-to-Work Week, Arizona Trail Day, and the Flagstaff Community Market. Two walking and biking summits were hosted in late 2017, during which approximately 100 attendees were given an opportunity to provide feedback and complete a survey.

- **PAC and BAC meetings**. Since 2014, discussion of the ATMP has been a standing item on the monthly agendas of the City's Pedestrian Advisory Committee (PAC) and Bicycle Advisory Committee (BAC).

- **National guidance and peer community review**. The ATMP also incorporates relevant state of the practice information from other communities and national sources.

Guiding principles

These guiding principles provide a foundation for the ATMP, describe why walking and biking are important and beneficial, and express the community's expectations for walking, biking, mobility, and transportation.

- **Walking and biking are important to Flagstaff and reflect the values of the community**. Walking and biking are a significant part of Flagstaff's community character, and can be used as indicators of livability. Walking and biking are also linked to numerous health benefits and help contribute to well-being.

- **Flagstaff has a significant opportunity to expand walking and biking, but it takes a concerted effort by the City**. Walking and biking as transportation options need to be actively supported, encouraged, and prioritized in order to thrive. The community responds positively when the City works to accommodate and encourage walking and biking.

- **More people will choose to walk and bike when it is comfortable, convenient, and useful**. Evidence from other communities shows that when active transportation is prioritized, people walk and bike more. Conversely, people are discouraged from walking and biking when they feel uncomfortable or unsafe, and when facilities are inadequate.



- **Walking and biking are critical elements of a robust transportation system**. Our transportation system is most efficient and equitable when it provides a range of transportation options, including walking, biking, and transit. Shifting trips from single-occupant vehicles to walking, biking, and transit is essential to

managing congestion and enhancing mobility.

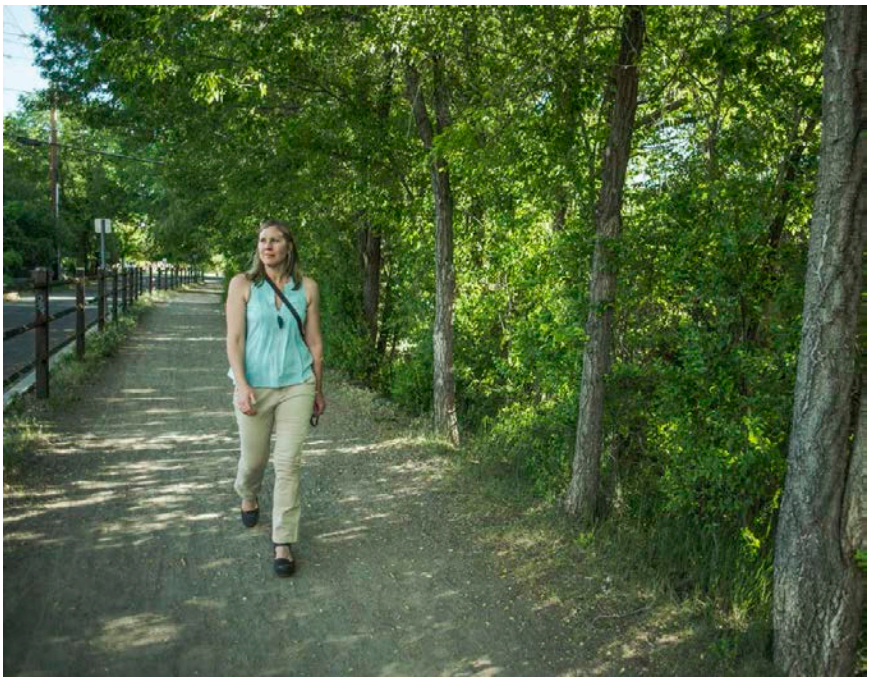
- **Walking and biking are integral parts of a larger context of land use, community character, and street design**. The design and character of our streets should reflect our community goals and values for community character, climate change, equity, and safety. Density, compact form, diversity of uses, and urban design are essential for walking and biking.

- **Mobility – the ability to travel freely to access our daily needs and activities – is a fundamental human need**. Community mobility is measured by how well those with mobility challenges can access their daily needs, live independently, and move freely. More viable transportation options mean better mobility for the entire community.

- **Better transportation options and enhanced mobility support equity**. Transportation options improve mobility for all segments of the population, including the elderly, individuals with mobility challenges, low-income populations, and marginalized communities. Not everyone drives, and not everyone in Flagstaff can afford to drive. For some in our community, independent mobility is often dependent on walking, biking, or taking the bus.

- **Sustainable transportation options are critical to meeting the City's carbon neutrality goals**. In Flagstaff, transportation accounts for about 30 percent of greenhouse gas emissions. Carbon neutrality goals will not be met without a reduction of emissions in this sector.

- **Active transportation supports a healthy and resilient economy**. Communities with strong walking, biking, and trails infrastructure gain a competitive edge in attracting and keeping businesses and jobs. For many private companies, locational decisions are driven as much by quality-of-life factors as economic considerations.



Approach

The following points summarize the Big Shift in our approach to transportation planning to support walking and biking, enhance mobility for everyone, meet our climate goals, and create a more balanced transportation system.

- **Be more transformational than incremental**. Flagstaff could be a great city for walking and biking, but bold action is needed to make it happen. What's needed is a fundamental shift in our approach to walking and biking accommodation, as well as with transportation planning in general.



- **Prioritize pedestrians and bicyclists**. Those who walk and bike are deserving of extra consideration, including additional protection as vulnerable roadway users. Planning for pedestrian and bicycle facilities should seek to provide a high level of accommodation rather than a minimum.

- **Take a well-rounded approach to transportation**. Transportation planning needs to consider multiple community objectives – community character, sustainability, public health, economic vitality, environmental stewardship, and equity – in addition to the conveyance of motor vehicles.

- **Pursue a wide range of solutions for mobility**. Efficient management of transportation resources requires a broad range of strategies to enhance mobility rather than an approach that relies primarily on increasing vehicle capacity.

- **Use Travel Demand Management (TDM) as a guiding principle**. TDM expands mobility options and helps to manage congestion by simultaneously reducing the demand for vehicle use and increasing capacity for active and other sustainable modes.

- **Don't overbuild for cars**. Wide, fast roads and large parking lots can discourage walking and biking, encourage automobile use, create unsafe streets for all modes, and make it difficult to promote desirable community character. Reliance on traffic models, level of service measures, and vehicle capacity can lead to overbuilding.

2 Current conditions

This section provides an overview of current conditions for walking and biking in Flagstaff, based on several measures and considerations. Taken together, these measures reveal a community that is generally supportive of walking and biking, but there is significant room for improvement. While there are many positives, there is also a long list of challenges. Overall, there is tremendous opportunity in Flagstaff to be a premier community for walking and biking.

Introduction

Walking

Walking is the most enduring and universal mode of transport. In Flagstaff, walking is the most robust of the active modes; the percentage of trips in Flagstaff made by walking is significantly higher than for bicycling or transit. Additionally, the percentage of Flagstaff residents who walk to work far exceeds state and national averages and places us in the upper echelon of our peer communities.

Walkability is highly dependent on land use and urban form in addition to complete and comfortable facilities. Because trips are short, walking requires proximity and is supported by density, mixed-use, and compact form. Walkability is also responsive to good urban design; attractive and engaging places are appealing to pedestrians.



Bicycling

Bicycling as a travel mode presents one of Flagstaff's best opportunities for reducing vehicle trips and increasing the share of trips made by active modes.

Bicycles make it possible to travel longer distances, and to carry cargo as well. Flagstaff's compact size means that most of Flagstaff is contained within a bikeable area, so in theory, most in-town trips could potentially be converted to bicycle trips. In Flagstaff, the average trip is a little over four miles in length, and almost 60 percent of all trips are less than five miles in length. This distance is eminently bikeable, provided it can be made

comfortable and appealing for the average person.

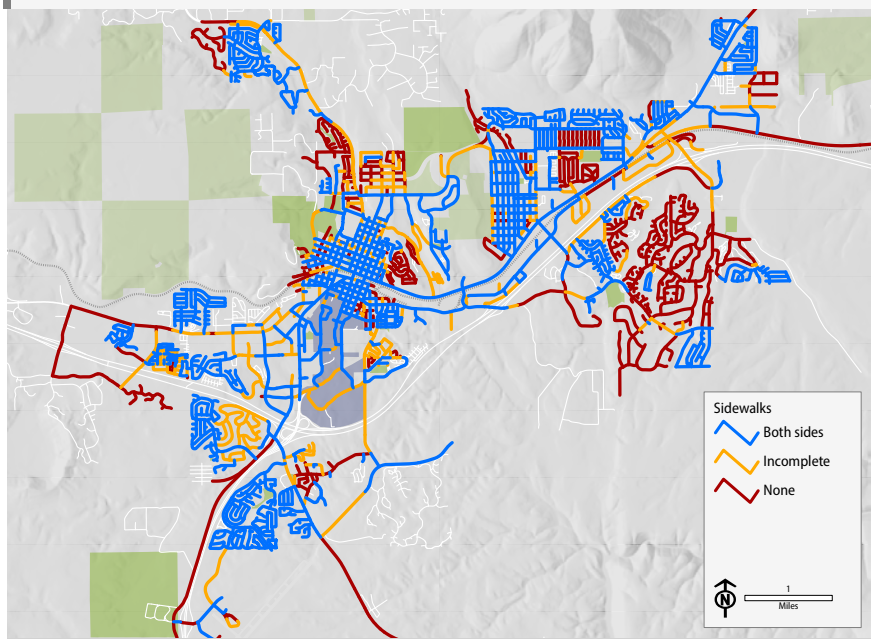
Biking is also a big part of Flagstaff's culture and identity. Flagstaff is becoming a world-class destination for mountain biking, with more than 300 miles of recreational singletrack trails in proximity. Flagstaff also hosts numerous bicycle-themed events throughout the year.

Status of walking and biking

Infrastructure

The term infrastructure refers simply to the physical facilities for walking and biking. In general, Flagstaff has good pedestrian and bicycle facilities, but significant gaps and inconsistencies reduce the functionality of our networks.

Sidewalk status



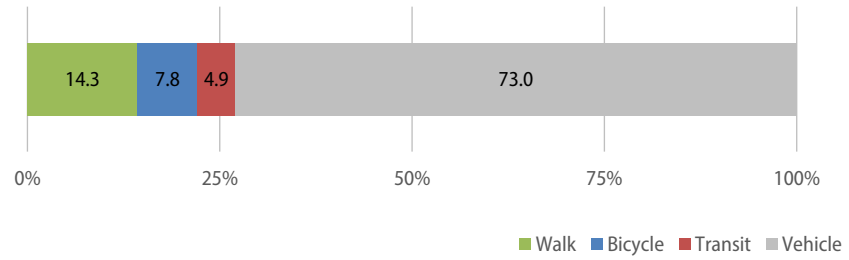
- **Sidewalks**. Sidewalks are present on 70 percent of Flagstaff's major streets. However, only 53 percent of all public streets have sidewalks along both sides of the street, and 29 percent have no sidewalk at all.
- **Bike lanes**. There are 97 miles of designated bike lanes in Flagstaff, and another 34 miles of usable shoulders. Bike lanes are present on 71 percent of major streets, but there are also 70 miles of missing bike lanes.
- **FUTS trails**. Flagstaff's 59 miles of FUTS (Flagstaff Urban Trails System) trails provide a comfortable and enjoyable network for walking and biking. About half of the trail miles are paved and half are aggregate surfaced.
- **Crossings**. While Flagstaff has installed a number of flashing beacon crossings in the past several years, there are still a number of street corridors in Flagstaff that are difficult to cross due to the speed, volume, and width of the street. Flagstaff also has several grade-separated crossings; however, the presence of two interstates and the railroad through Flagstaff create significant breaks in pedestrian and bicycle networks.

Mode share

Mode share is the percentage of trips that are taken by different modes of travel, including walking, biking, transit, and private vehicles, and a direct measure of the status of walking and biking in a community. Overall, Flagstaff's mode share numbers are relatively strong and indicative of a good climate for walking and biking; however, flat or declining trends indicate that more work is needed.

- **Mode share**. According to the 2018 Flagstaff Trip Diary Survey, 22 percent of all trips in Flagstaff are made by walking and biking, including 14.3 percent by walking and 7.8 percent by bicycle.

Current mode share

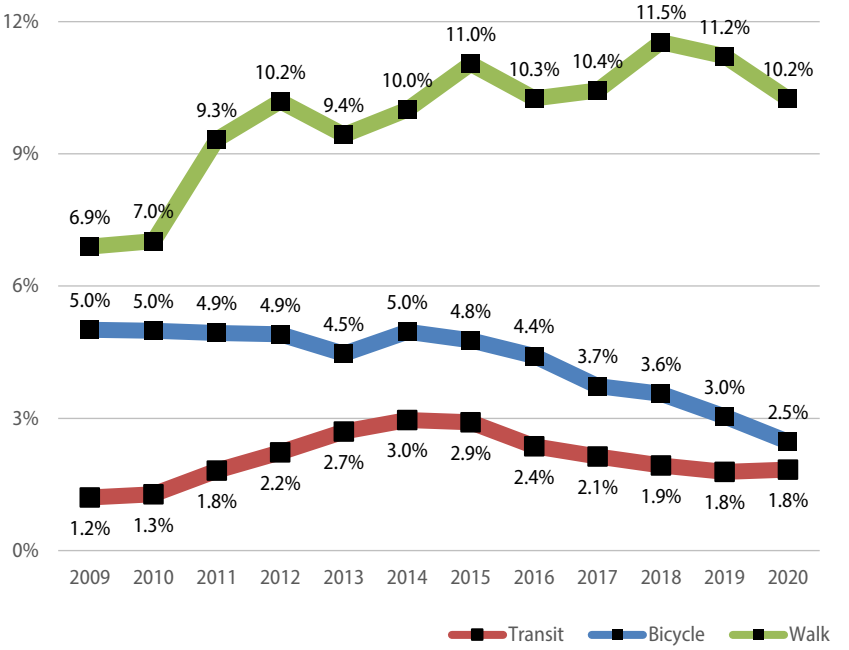


Source: 2018 Flagstaff Trip Diary Survey

- **Trends**. The percentage of trips made by walking has increased somewhat since 2006, while the percentage of bicycle trips has declined, based on composite data from the Trip Diary Survey and the American Community Survey.

- **Geography**. In the core area of Flagstaff, which includes Downtown, the Southside neighborhood, and the NAU campus, people are much more likely to walk or bike than in the rest of Flagstaff. The combined walk and bike mode share is 44 percent in the core area, but only 13 percent for the rest of Flagstaff. Between 2006 and 2018, walking and biking mode share increased by 15 percent in the core area of Flagstaff but decreased by 7 percent in the rest of Flagstaff.

Means of transportation to work trends

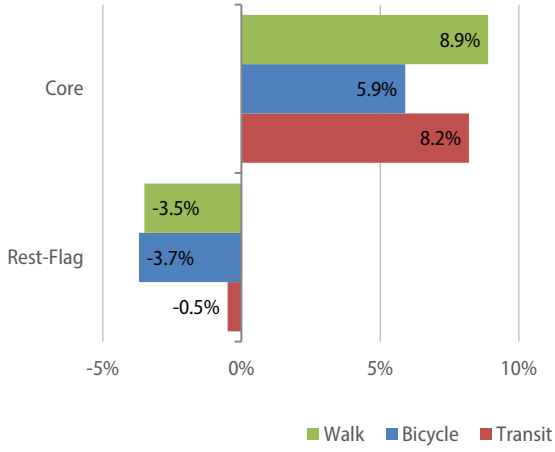


Source: American Community Survey 5-Year Estimates

- **Peer cities**. In comparison to our peer communities – cities in the west with a similar population to Flagstaff and a large public university – Flagstaff is among the leaders in walk share to work (third of 20 cities), but lags behind our

peer communities in bicycle mode share (12th of 20 cities).

Mode share change by geography, 2006-2018



Source: 2018 Flagstaff Trip Diary Survey

Safety

Pedestrian and bicycle crash data is an important indicator of safety for active transportation.

- **Crashes and trends**. Flagstaff has an average of 29 crashes involving pedestrians each year, and an average of 52 crashes involving bicyclists. Annual numbers for both pedestrian and bicycle crashes in Flagstaff have generally trended downward since 2001.

- **Pedestrian injuries and fatalities**. More than a quarter of all pedestrian crashes in Flagstaff result in serious injury or death to the pedestrian, and pedestrian fatalities represent almost half of all traffic fatalities in Flagstaff.

- **Bicyclist injuries and fatalities**. Flagstaff did not see a fatal bicycle crash between 2012 and 2018, but there was one bicycle fatality in 2018 and two in the first half of 2021. On average, fewer than six crashes per year result in serious injury to the bicyclist.

National measures

National measures and recognition programs can be somewhat general and oversimplify conditions, but they afford an opportunity for comparison to other communities. They also offer an outside, third-party perspective of Flagstaff's walking and biking environment.

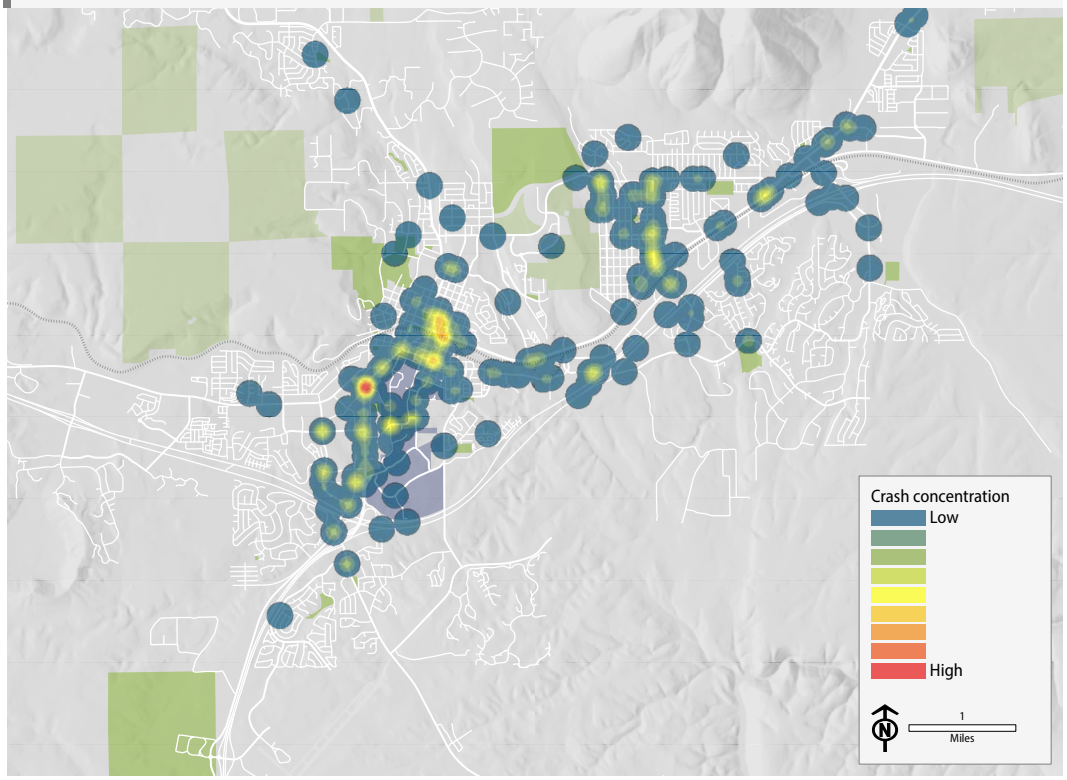
- **Walk Score**. Flagstaff's Walk Score of 39 places it in the "Car Dependent" category and is an indication that most errands require a car. Our Walk Score places us at the lower end of our peer communities; 14th out of our 20 peer cities, and below the average score of 43.

- **Bike Score**. Flagstaff's Bike Score of 65 places it in the "Bikeable" category and indicates that some bicycle infrastructure is present. Our Bike Score places us 8th out of 20 peer cities, and just above the average score of 61.

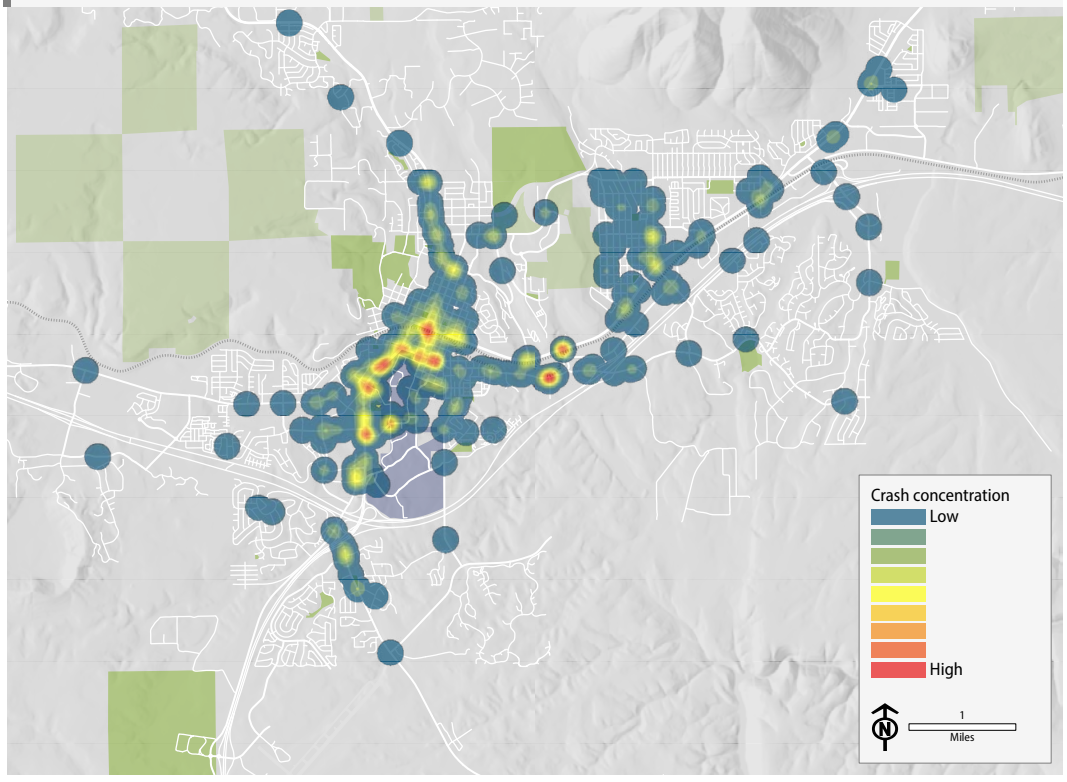
- **Walk Friendly Communities**. Flagstaff was designated as a Walk Friendly Community at the bronze level in 2011, one of 76 cities across the country and the only one in Arizona.

- **Bicycle Friendly Communities**. Flagstaff was designated a Bicycle Friendly Community in 2006 at the bronze level and promoted to silver in 2010. There are 13 bicycle friendly communities in Arizona and almost 500 nationwide.

Pedestrian crash concentration



Bicycle crash concentration



Challenges for walking and biking

Flagstaff has a number of circumstances and conditions that make it difficult to walk and bike:

- **Streets that are difficult or uncomfortable for walking and biking**. On many arterial and collector streets, the speed, volume, and lanes of traffic, in combination with inadequate facilities for walking and biking, discourage pedestrian and bicycle use.



- **Barriers dividing the community**. Linear features, including the BNSF tracks, both interstates, and busy streets like Milton Road and Route 66, create barriers that make pedestrian and bicycle travel more challenging. There are few dedicated crossings for pedestrians and bicyclists along the railroad tracks and interstates, and few formal crossings on many streets.

- **Challenging and difficult intersections**. A number of intersections are characterized by multiple turn lanes, long crossing distances, high-speed turning movements, and less than adequate accommodation for walking and biking.

- **Isolated neighborhoods**. Flagstaff's geography has created numerous locations with limited access, and often less-than-ideal facilities for walking and biking along main corridors serving neighborhoods.

- **Gaps and inconsistencies in the bicycle network**. Although bike lanes are included along many arterial and collector streets, there are still significant missing segments, and bike lanes disappear at many intersections. While many communities have embraced separated bike lanes to appeal to a wider audience, Flagstaff is just beginning to explore and implement.

- **Maintenance challenges**. Maintenance of pedestrian and bicycle facilities remains a concern, especially in winter months. Bike lanes are not always cleared of snow, and the use of cinders in winter months creates challenges on both sidewalks and bike lanes. Frequent freeze-thaw cycles are especially destructive to sidewalks, bike lanes, and FUTS trails.

- **Pedestrian and bicycle accommodation during closures**. Pedestrian and bicycle

accommodation is not always adequately addressed during closures of sidewalks, bike lanes, and FUTS trails due to construction, repairs, or utility work, and facilities appear to be closed unnecessarily at times. Public notification is inconsistent.

- **Few initiatives for education, enforcement, and encouragement**. Communities with robust pedestrian and bicycle environments typically support walking and biking with a variety of programs that go beyond infrastructure and facilities. In comparison to its peers, Flagstaff has few formal programs for education, enforcement, or encouragement.

The opportunity in Flagstaff

While there are significant challenges, Flagstaff is also uniquely positioned to become a great community for walking and biking, for several reasons:

- **Healthy mode share**. Flagstaff already has a lot of people who are biking and walking: 22 percent of trips in Flagstaff are made by walking or biking.

- **Good basic facilities**. Sidewalks and bike lanes on major streets are substantially complete, which means the City only needs to focus on a few priority locations.

- **Compact and dense urban form**. Flagstaff is a compact city and becoming denser. The Downtown, Southside, and NAU campus form a dense core where there is already substantial walking and biking. The remainder of Flagstaff is compact enough to allow travel on foot or by bicycle.



- **Short trip length**. Many trips made in Flagstaff are short and can potentially be converted from driving to walking or biking. For private vehicle trips, a total of 37 percent are less than 2.5 miles in length, and 11 percent are less than a mile. By comparison, 80 percent of bicycle trips are less than 2.5 miles, and 53 percent of walking trips are less than a mile.

- **Large university**. Northern Arizona University has almost 30,000 students on campus who are good candidates to use walking and biking for daily travel. The NAU campus is located in the central core of Flagstaff and is becoming denser as the university grows.

- **20 years of funding**. Flagstaff has 20 years of funding for pedestrian and bicycle projects via the 2020 transportation sales tax. This tax, which was approved by Flagstaff voters in 2018, is a committed funding source for implementation of the infrastructure recommendations in this plan. Tax funding can also be used to leverage grant opportunities, partnerships, and other sources to build more pedestrian and bicycle infrastructure.

- **Robust transit system**. In 2019, more than 2.5 million trips were taken on Mountain Line transit, representing an increase of 250 percent since 2006. Walking and biking support transit since many transit trips start with one of these modes, and transit supports walking and biking by providing a backup option and allowing longer trips.

- **Active and engaged population**. Flagstaff is an active, civically engaged community that supports walking and biking, values outdoor activity and access to open space, and supports sustainability and the environment.

- **Community support**. Surveys of Flagstaff residents consistently show broad support for walking, biking, and trails, a willingness to tax themselves to fund sustainable transportation, and a strong interest in making Flagstaff more walkable and bikeable.

- **Flagstaff Urban Trails System**. The FUTS is one of our most important and well-used facilities for walking and biking. FUTS includes 59 miles of shared use pathways that connect throughout the community, provides a safe and comfortable place for users away from traffic, and encourages both transportation and recreational use.

- **Climate action and sustainability goals**. In June 2021, the City approved the Carbon Neutrality Plan, which sets a target for 54 percent of all trips to be made by walking, biking, or transit. Because transportation is a significant contributor to greenhouse gas emissions, promoting sustainable transportation options is critical for meeting the City's climate targets.



- **Favorable weather**. Although Flagstaff sometimes sees heavy snowfalls, most winter days are still clear and sunny, and snow tends to melt quickly. As a result, walking and biking are still

viable transportation options through the winter. Spring, summer, and fall are often ideal for walking, biking, using trails, and being outdoors.



3 Goals and policies

Goals are desired results which the community envisions and commits to achieve. Goals are written to be high level and aspirational. Policies are a deliberate course of action to guide decisions and achieve our stated goals, while strategies are specific actions or steps to implement the goals and policies. Policies and strategies in this document are intended to provide specific direction for active transportation.

This chapter recommends 13 goals and 32 policies. The policies are organized around six subjects: infrastructure, maintenance and operations, support and encouragement, safety, transportation and land use planning, and evaluation. A lengthy list of strategies for each of the policies is provided at the end of this document as Appendix A, beginning on page 95.

Goals

As set forth in this plan, it is the goal of the City of Flagstaff to:

- Create an inclusive multimodal transportation system that provides access, mobility, and efficient transportation options for people of all ages and ability.
- Recognize that people who travel on foot, by bicycle, or by transit are legitimate users of the transportation system and deserving of the same considerations as motorized users.
- Ensure that safety and accommodation for vulnerable road users, including pedestrians and bicyclists, is a primary consideration in planning for our streets and transportation systems.
- Provide an excellent level of accommodation for pedestrians and bicyclists in transportation planning, design, operations, and maintenance.
- Promote equity by actively working to ensure that all segments of the population have equal access to safe and functional transportation and equal opportunity for mobility, regardless of age, ability, gender, race, income status, location, or situation.





- Maintain Flagstaff's streets, sidewalks, bikeways, crossings, and FUTS trails in good condition and free of snow, debris, and blockages to ensure safety and functionality for all users, regardless of transportation mode.
- Provide a range of functional and attractive transportation options so that all residents and visitors have choices in how they move around the city.
- Integrate transportation and land use planning such that development decisions support transportation goals, and transportation planning advances the community's vision for the built environment.
- Build networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient.
- Provide crossings where they are needed and useful, and avoid building streets that function as barriers, in recognition of the essential need for pedestrians and bicyclists to cross streets.
- Design and build transportation infrastructure that is appropriate for the context of the corridor, neighborhood, or district where it is located.
- Reduce the demand for single-occupancy vehicle use and increase options for walking, biking, and transit as a fundamental approach to transportation planning.
- Make transportation decisions that support a variety of community values, including community character, sustainability, public health, economic vitality, environmental stewardship, equity, and safety.

Policies

1	Infrastructure
1.1	Implement networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient.

1.2	Provide frequent and comfortable crossings to eliminate barriers and avoid breaks in pedestrian and bicycle networks.
1.3	Ensure the availability of functional bike parking.
1.4	Incorporate wayfinding signage to enhance the functionality of walking and biking networks.
1.5	Work with the City's transportation partners to unify walking and biking networks.
1.6	Connect walking and biking facilities with regional trails and open space to ensure convenient access from all Flagstaff neighborhoods.
1.7	Identify and take advantage of opportunities to fund and implement the pedestrian and bicycle network.

2	**Maintenance and operations**
2.1	Maintain walking and biking infrastructure in a state of good repair.
2.2	Clear ice and snow from pedestrian and bicycle facilities to keep them usable through the winter months.
2.3	Keep walking and biking facilities free of blockages and debris.
2.4	Limit the impact of closures on walking and biking facilities.
2.5	Improve and enhance existing pedestrian and bicycle facilities to meet basic levels of functionality and accessibility.

3	**Support and encouragement**
3.1	Use information and maps to promote, encourage, and make it easier to walk and bike.
3.2	Promote events and activities that support walking and biking.
3.3	Work towards equity and inclusion in pedestrian and bicycle programs.
3.4	Incorporate universal access as a key component of walking and biking.
3.5	Pursue other programs and facilities that are supportive of walking and biking.
3.6	Develop beneficial relationships with our community partners to promote walking and biking.
3.7	Explore ways to grow City staff resources for active transportation.

4	**Safety**
4.1	Establish comprehensive education and safety programs for pedestrians, bicyclists, and motorists.
4.2	Adopt a comprehensive transportation safety action plan and strategy with the explicit intent and goal to eliminate traffic fatalities and serious injuries.
4.3	Re-establish a community-wide Safe Routes to School (SRTS) program.

4.4	Work with the Flagstaff Police Department to advance enforcement efforts that improve safety for pedestrians and bicyclists.
4.5	Verify that walking and biking facilities allow and encourage safe behavior for all users.

5	Transportation and land use planning
5.1	Use Travel Demand Management (TDM) as a guiding principle for transportation and land use planning.
5.2	Establish a "complete transportation" process for all City transportation plans and projects that incorporates broad community objectives.
5.3	Review current transportation-related standards, guidelines, and processes to identify opportunities to implement this plan and better support walking and biking.
5.4	Adopt design guidelines that reflect best practices for streets, intersections, pedestrian and bicycle facilities, and trails.
5.5	Incorporate principles of placemaking in street design and pedestrian and bicycle infrastructure.

6	Evaluation
6.1	Collect and analyze data related to walking and biking.
6.2	Provide opportunities for community engagement and feedback.
6.3	Conduct regular assessments of walking and biking conditions.



4 Outcomes, indicators, and targets

This section describes the desired results of this plan, as well as measures to determine if those results are being achieved.

- **Outcomes**. The anticipated results or consequences that follow from implementation of this plan. They describe desired conditions, how walking and biking should function, and where Flagstaff wants to go. If goals, policies, and strategies are the journey, then outcomes are the destination.
- **Indicators**. Points of data that demonstrate the extent to which Flagstaff is achieving the desired outcomes of this plan. They are specific and measurable and a direct indication of whether progress is being made.
- **Targets**. A subset of indicators that include a specific milestone to attain within a specific timeframe. Targets are set for a few but not all indicators.



Outcomes and indicators

Walking and biking are frequently used transportation options for everyone

- **Mode share**. The percentage of trips made on foot and by bicycle (mode share) is increasing, based on the MetroPlan Trip Diary Survey.
- **Mode share for work trips**. The percentage of work commute trips made by walking and biking is increasing, as reported by Journey to Work data from the American Community Survey.
- **Counts**. Pedestrian and bicycle counts at key locations show that more people are walking and biking.

People can travel anywhere in the community by walking or biking on safe, comfortable, and efficient networks

- **Sidewalk completion**. The percentage of major streets with sidewalks along both sides is increasing.
- **Bikeway completion**. The percentage of planned bikeways, especially primary and secondary bikeways, that have been built or implemented is increasing.
- **FUTS coverage**. The percentage of residents and neighborhoods within a quarter mile of the FUTS system is increasing.
- **Intersection accommodation**. The percentage of major intersections with good pedestrian and bicycle facilities is increasing.
- **Crossing distance**. The number of segments along major streets where the distance between major crossings exceeds desired lengths is decreasing.

Walking and biking is safe and comfortable

- **Comfort indices**. The number of street segments and intersections that are rated as "uncomfortable" or "very uncomfortable" in pedestrian, bicycle, intersection, and crossing comfort indices is decreasing.
- **Crash rates**. The number and rate of pedestrian and bicycle crashes are decreasing.
- **Community perception**. Responses to public surveys indicate a general trend that walking and biking are becoming more comfortable for more people.
- **Bikeways**. An increasing percentage of the low-stress bikeways network has been implemented.

Biking and walking are celebrated as a part of Flagstaff's identity

- **Walk- and bike-friendly communities**. Flagstaff's designation advances from Bronze and Silver.
- **Walk Score and Bike Score**. Flagstaff's community scores are increasing and are above the averages of our peer communities.
- **National ratings and rankings**. Flagstaff appears



or moves up on national ratings and rankings for pedestrian and bicycle friendliness.

- **Events**. There are a variety of walking and biking-themed events and activities in Flagstaff; the number of events is generally increasing, and they are becoming more popular.

Transportation in Flagstaff has a lower climate impact

- **Greenhouse gases**. Total greenhouse gas emissions from the transportation sector are decreasing.
- **Per-capita vehicle miles traveled**. The average number of vehicle miles traveled per person is decreasing.
- **Vehicle miles traveled**. The total number of vehicle miles traveled for the community is decreasing.

Walking and biking are enjoyed by everyone in the community

- **Mode share for specific populations**. The percentage of trips made by walking and biking is increasing across age, gender, race, and income demographics.
- **Geographic distribution**. The percentage of Flagstaff neighborhoods without pedestrian and bicycle facilities, or with significant gaps in the pedestrian and bicycle networks, is decreasing.
- **Universal access**. The number of locations along pedestrian and bicycle networks that do not meet minimum guidelines of ADA or principles of universal design is decreasing.
- **Low-income neighborhoods**. Counts of pedestrians and bicyclists at key locations in low-income neighborhoods is increasing.

Targets

A total of six targets are established for mode share, safety, and recognition. Short-term targets are established for five years (2027) and long-term targets are set at 20 years (2042).

Mode share

Mode share information is collected from MetroPlan's Trip Diary Survey for all trips, and from the American Community Survey for the work commute. Target mode share numbers reflect a 40 percent increase in

Walking and biking targets

Target	*Current 2022*	*5 years 2027*	*20 years 2042*
Mode share			
Walk-bike-transit (all trips)	27%	38%	54%
Walk-bike-transit (work trip)	17%	24%	34%
Safety			
Ped/bike fatal/serious injury	3	0	0
Total ped/bike crashes	~~81~~56	~~65~~45	~~41~~28
Recognition			
Walk friendly	Bronze	Gold	Platinum
Bike friendly	Silver	Gold	Platinum

walk, bike, and transit trips within five years, and a 100 percent increase, or doubling of current mode share, in 20 years.

Safety

The City's target is for zero pedestrian and bicyclist deaths and serious injuries over the next 20 years, as well as a 20 percent reduction in all crashes after five years, and a 50 percent reduction in 20 years. Taken together, the safety and mode share targets mean that Flagstaff's goal is to cut pedestrian and bicycle crashes in half, even as the number of pedestrians and bicyclists grows by double.

Recognition

Recognition targets are based on the Walk and Bike Friendly Community programs. In both cases, the City aspires to Gold status within five years, and Platinum designation by 2042.



5 Implementation

This section addresses opportunities for implementation of the ATMP. Implementation must be a comprehensive, broad-based approach that considers capital and private development projects, on-going planning and programming efforts, and internal review processes and procedures. It is important to recognize that there are opportunities for implementation in every decision that is made and every action that is taken by the City, no matter how large or small. The cumulative impact of these decisions and actions either brings Flagstaff closer to the goals and policies of the ATMP or moves us further away.

Priority actions

This list represents the most important and highest impact actions that can be taken to implement the ATMP and enhance walking and biking. Priority actions are further divided into two timeframes; those in the First Year category should be started immediately, while First Five Years represents the second wave of actions.

First year

- Begin implementation of priority pedestrian and bicycle projects, with funding from the transportation sales tax (Prop 419) and First/Last Mile grant funding. (Policy 1.1)
- Explore available grant programs, especially federal grants available through the Infrastructure Investment and Jobs Act, to leverage available funding for new infrastructure and programs. (Policy 1.7)
- Establish a process for transportation plans and projects that incorporates the principles of "complete transportation" and addresses broad community objectives, and expands considerations for walking, biking, and transit in transportation impact analyses (TIA) and traffic modeling. (Policy 5.2)
- Conduct a comprehensive review of the City's regulatory documents, including the Zoning Code and Engineering Standards, to identify opportunities to implement this plan and better support walking and biking. (Policy 5.3)

First five years

- Implement strategies to enhance the availability and quality of bike parking. (Policy 1.3)
- Work with other City programs to review policies and practices for maintenance and snow removal on pedestrian and bicycle facilities. (Policies 2.1 and 2.2)
- Review the processes and guidelines for issuing permits for closures and detours, including additional guidelines and standards to better support pedestrian and bicycle accommodation.

(Policy 2.4)

- Update and add to available information, web pages, and maps for walking and biking. (Policy 3.1)
- Find opportunities to expand dedicated City staff and other program resources for active transportation. (Policy 3.7)
- Adopt a comprehensive transportation safety action plan and strategy with the explicit intent and goal to eliminate traffic fatalities and serious injuries. (Policy 4.2)
- Re-establish a community-wide Safe Routes to School (SRTS) program. (Policy 4.3)
- Explore options for a formal Travel Demand Management (TDM) program. (Policy 5.1)
- Adopt a formal Complete Streets policy. (Policy 5.2)



The list of priority actions should be reviewed every few years to assess progress made on implementation and to consider the next round of priority actions to undertake.

Implementation opportunities

The following describes a wide-ranging list of potential opportunities for implementation of the ATMP.

Funding

- **Transportation sales tax**. In November 2018, Flagstaff voters approved Proposition 419, which extends the transportation sales tax for 20 years, from 2020 to 2040. A total of $29 million is anticipated for pedestrian and bicycle projects over the 20-year life of the tax.
- **First Mile Last Mile grant**. In late 2020, Mountain Line was awarded a Section 5307-5339 grant of approximately $5.5 million from the Federal Transit Administration for pedestrian and bicycle infrastructure. The City has partnered with Mountain Line to deliver pedestrian and bicycle projects funded with the grant. Projects are drawn from the City's prioritized list of pedestrian

and bicycle projects, with additional consideration given to those projects that directly support transit.

- **Other grants**. Historically, grant funding has been an important source of funding for pedestrian and bicycle infrastructure, particularly FUTS trails. The federal Infrastructure Investment and Jobs Act, which was signed into law in November 2021, includes several new grant programs that could be used to fund pedestrian and bicycle projects.

Capital planning and programming

- **Capital Improvements Program (CIP)**. The CIP is a component of the City's annual Budget and Financial Plan that establishes a five-year plan for construction of priority capital projects, including pedestrian and bicycle projects. Projects identified in the first year of the program are funded at the beginning of the following fiscal year and can proceed to design and construction. Years two through five of the capital program list other priority projects and indicate when they are anticipated to receive funding for design and construction.



Other projects

- **Street projects**. Several major roadway projects are also planned with proceeds from the transportation sales tax over the next 20 years. Some of these road projects involve widening or completion of existing streets, while others include construction of new street segments. In all cases, these street projects will include sidewalks, bikeways, FUTS trails, and crossings where they are missing or planned.

- **Capital projects**. Pedestrian and bicycle facilities are frequently included as part of City capital improvement projects, including street and utility projects. This can be more efficient and less costly than building them as stand-alone projects, but it may be necessary to provide additional funds to offset the increase in cost. The Rio de Flag flood control project is an extensive public works project that provides a significant opportunity for pedestrian and bicycle enhancements.

- **Private development**. Historically, public sidewalks, bike lanes, and FUTS trails have been built

by private development as part of their required public improvements. Division 10-30.50 of the Flagstaff Zoning Code requires new development to construct public improvements necessary to mitigate the impacts of the development.

- **Transit projects**. Because walking and biking directly support transit, pedestrian and bicycle infrastructure can often be included in federal grants and funding for transit projects.

Regulations and plans

- **Standards**. The City's Zoning Code and Engineering Standards are the two primary regulatory frameworks for development and infrastructure. Following adoption of the ATMP, both should be reviewed and revised as necessary to incorporate any relevant recommendations from the ATMP.

- **Design guidelines**. Good design and attention to details are critical to successful pedestrian and bicycle facilities. A comprehensive set of design guidelines and best practices for pedestrian and bicycle facilities would benefit implementation of the ATMP.

- **Other plans and programs**. The City and other agencies in the region, including Coconino County, Mountain Line, NAU, MetroPlan, and ADOT, are responsible for a variety of on-going transportation programs and planning efforts. Going forward, these plans and programs may provide opportunities to incorporate the recommendations of the ATMP.



Other opportunities

- **Pilot projects**. Pilot projects are a way to test new facilities and designs without making a long-term investment in permanent infrastructure. They also provide an opportunity to gain public feedback and explore maintenance and operational needs.

- **Tactical urbanism**. Also referred to as lighter-quicker-cheaper (LQC) projects or pop-up projects, tactical urbanism is a community-driven version of pilot projects. These projects are often used as a demonstration of how right-of-way space could be used differently, for example for community or civic space versus vehicle space.

- **Community partners**. While the City will have primary responsibility for implementation of many of the policies and strategies in the ATMP, there is still a substantial and important role in implementation for community partners and stakeholders. Successful implementation requires a community effort and will only succeed with broad participation and support.

- **Walking and biking programs**. Programmatic elements are a critical component of a well-rounded, comprehensive approach to walking and biking. Of the six traditional E's of multimodal transportation planning, only one – Engineering – involves infrastructure. The remaining five – Education, Enforcement, Encouragement, Equity, and Evaluation – are addressed through supportive pedestrian and bicycle programs. To date, the City's efforts have focused on infrastructure, but there is an opportunity and a need to expand programs for walking and biking.



Resources

The Active Transportation Master Plan is an aspirational document, which means that the City does not currently have the resources needed to implement most of the recommendations and projects in this document.

- **Funding**. While the City is fortunate to have almost $35 million available for pedestrian and bicycle projects, this amount will fund most but not all of the projects that have been identified as first priority. Remaining second, third, and fourth priority projects are unfunded in the 20-year time frame.

- **Staffing**. At present, the City of Flagstaff does not have sufficient staff resources to undertake many of the recommendations in this plan, including those highlighted as priority actions. Bicycle Friendly Community metrics indicate that a gold-level community should have one bicycle program staff person for every 32,000 in population. Flagstaff – with a population of more than 75,000 – has one staff for its pedestrian, bicycle, and trails programs.

- **Maintenance**. Additional walking and biking facilities, as outlined in this document, will expand maintenance obligations for the City. Resources for maintenance are already a

challenge for the City; at times there is pushback against new walking and biking facilities because of maintenance concerns.

There are several ways that implementation can be managed and made more efficient with limited resources:

- Use a thorough process for setting priorities for walking and biking facilities to identify the projects that are most important and will have the most impact.
- Establish a realistic and deliberate work program that highlights the priority actions from this document. Follow the work program and avoid distractions from emerging and short-term items.
- Find ways to share the workload with other divisions, programs, and staff where work programs and missions overlap.
- Bolster staff resources using interns, student projects, and AmeriCorps VISTA workers.
- Add new program staff for walking and biking.



6 Planning considerations

This chapter includes a general discussion of how planning for pedestrian and bicycle accommodation fits into the larger contexts of transportation and land use planning.

Transportation planning

Pedestrian and bicycle accommodation are fundamental components of and directly influenced by Flagstaff's overall approach to transportation planning. This section describes a variety of transportation planning concepts and methods that support both walking and biking and a balanced transportation system. These are concepts that can be used in transportation planning at all scales, from intersection improvements to a corridor master plan.

Travel demand management

Travel Demand Management (TDM) is a transportation policy approach that reduces demand for single-occupant vehicle use, while simultaneously encouraging use of sustainable travel modes, including walking, biking, and transit. Traditional transportation planning is often focused on building capacity to meet anticipated demand, typically in terms of roadway infrastructure. TDM emphasizes reducing vehicle demand, using existing resources and capacity more efficiently, and building capacity for walking, biking, and transit.

TDM functions at two levels. At a policy level, TDM is a guiding principle or philosophy for transportation planning. At a practical level, TDM is a comprehensive collection of strategies and programs that typically include facilities for walking, biking, and transit, support programs, incentives and disincentives, employer solutions, information, encouragement, and land use.

Typical TDM program elements

- Enhanced and long-term bike parking
- Showers, lockers, changing rooms
- Bike share
- Bicycle repair stations
- Company bicycle fleet
- Bicycle valet parking
- Car share
- Rideshare
- Vanpools
- Carpool programs
- Transit benefits/subsidies
- Parking pricing/unbundled parking
- Multimodal wayfinding signage
- Multimodal information
- Guaranteed ride home program
- On-site childcare
- Employer-assisted housing
- Flexible work schedules
- Work from home options
- Land use changes

Traffic and congestion

Congestion mitigation

Transportation plans and projects frequently cite "congestion relief" as a primary goal, and often focus on solutions that increase vehicle capacity – such as adding travel lanes and turn lanes – to meet anticipated demand. However, the relationship between travel demand and capacity is not simply linear, and increasing vehicle capacity is not always an effective approach to managing congestion.

Traffic congestion on a roadway is a form of equilibrium between drivers who choose to be on the

roadway and those who have made a different choice to avoid congestion, like taking a different route, leaving at a different time, or using another mode. Increasing roadway capacity by adding vehicle lanes allows more drivers to choose to be on the roadway, and a new equilibrium point for congestion is established. This phenomenon has been widely studied as the concept of induced traffic, and it partially explains why roads that are widened are often just as congested as before within a few years. In the meantime, widening roads is very expensive and can have a negative impact on community character, sustainability, and walking and biking.

A more effective approach includes multiple travel options that are attractive and convenient, including walking, biking, and transit, so travelers have legitimate choices for avoiding congestion. Not all options or modes will work for everyone at all times; but multiple travel options allow the public to choose what best fits their needs for that trip. In Flagstaff, there is a significant community desire for better walking and biking options. When even a few people change their travel behavior, it can make a significant difference.



As Flagstaff moves forward with planning for its transportation network, a robust community conversation is needed about traffic and congestion. This discussion needs to consider realistic expectations about congestion, a change in focus from moving vehicles to moving people, an emphasis on mobility and increasing capacity for all modes, and broader consideration of a range of community objectives for transportation.

Traffic modeling

Traffic models help forecast future travel patterns and roadway network performance. Model results are frequently used to plan for future roadway capacity needs via through lanes, turn lanes, traffic signals, and other modifications. Traffic models are an essential tool for transportation planning, but they need to be used appropriately.

When traffic models are based on worst-case assumptions for future traffic volumes and congestion, the response can be to overbuild roadway capacity for vehicles. This becomes self-fulfilling because it encourages vehicle use and discourages walking and biking, resulting in increased traffic volumes.

Traffic models do not predict the future; they illustrate a potential outcome based on a specific set of assumptions about the future. When those assumptions are changed, different outcomes are

possible. For example, if the model assumes that people will drive more in the future, it will show more congestion, but if walking, biking, and transit use increase, there will be less congestion. Ultimately the direction we take is up to us; it is not predetermined by the model.

Transportation impact analysis

The City requires a transportation impact analysis (TIA) for larger-scale new development to document the impacts of anticipated traffic and to plan for mitigation of those impacts. Historically, the TIA process has emphasized vehicle trips, and mitigation has been focused on expanding vehicle capacity to meet level of service (LOS) objectives. In the last decade, the TIA process has expanded to address walking, biking, and transit trips and to include mitigations that support those modes. Broadening the scope of the TIA process in this way presents an opportunity to take a more well-rounded approach to traffic mitigation and to use walking, biking, and transit to reduce the demand for vehicle travel in new development.

Level of service

Level of service (LOS) is a principle quantitative measure used to assess traffic flow on roadways. The LOS measure assigns letter grades of A to F, with LOS "A" indicating free-flow traffic and LOS "F" representing forced or breakdown flow. LOS only measures vehicle delay; other considerations and community values, such as safety, pedestrian and bicycle accommodation, street character, and overall mobility, are not addressed.

In fact, high LOS ratings are often associated with poor pedestrian and bicycle environments. A street in an urban context – with slow-moving vehicles and significant pedestrian activity – will have a low LOS grade, while wide, fast, busy streets have a high LOS. When used as a primary criterion for evaluating transportation projects, LOS can prioritize vehicle travel over other road users. As a result, LOS should not be the primary or sole measure for evaluating mobility and other objectives in transportation planning and projects.

Other transportation approaches

Over the past few decades, a number of different models for transportation planning have been developed and become widely recognized. These models differ in their details, but in general focus on processes for finding balance in transportation projects, meeting a variety of community objectives, and supporting multimodal options.

Context sensitive solutions

Context sensitive solutions (CSS) describes an approach to transportation planning and street design that considers the environment in which the street is located. This means that streets should look and function differently based on where they are located, and that accommodation for walking and bicycling can vary based on the character of the area. For example, pedestrian facilities on a downtown street should be more robust than a sidewalk in an industrial area. Likewise, an arterial street through a neighborhood should look and function

Principles of a context sensitive process

The principles of CSS promote a planning and design process for transportation facilities that:

- Meet the needs of all users and stakeholders
- Are compatible with their setting
- Preserve scenic, aesthetic, historic, and environmental resources
- Promote safety, efficiency, mobility, multimodalism, capacity, and maintenance
- Integrate community objectives and values for sustainability, livability, community character, and neighborhood compatibility

differently than a street through a rural area. Successful CSS planning efforts are collaborative, include multiple stakeholders, encourage flexibility in design, avoid one-size-fits-all solutions, and consider a range of community objectives.

Complete streets

A complete streets policy holds that streets should be designed, operated, and maintained to enable safe access for all users, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities. A meaningful complete streets policy is more than just providing sidewalks, bike lanes, and bus stops; it means that streets always provide accommodation for all users, even in temporary or interim conditions, as the default; facilities for walking and bicycling are not just present, but functional and comfortable; and operation, maintenance, and snow removal accounts for all users, including pedestrians and bicyclists.

Complete transportation

This concept provides a method to integrate sustainable practices into transportation planning. Principles include optimizing existing infrastructure, enhancing mobility choices and safety, and supporting public priorities like community character and the environment. Strategies for planning processes include defining broad measures of success, establishing a wide range of project objectives, and considering a full set of alternatives in transportation projects.

The process for complete transportation is scalable; the principles and process can be used for large, complex corridor plans as well as determining an appropriate cross section for an intersection leg. The process is especially suited to retrofit projects and determining how to allocate available space to meet multiple needs.

Vision Zero

Vision Zero is an approach to transportation and roadway planning with an overall goal to eliminate all traffic fatalities and severe injuries, while increasing opportunities for safe, healthy, and equitable mobility for all. The approach recognizes that people make mistakes, but roadway systems – design, speeds, behaviors, technology, and policies – can be improved to lessen the severity of crashes, and that traffic deaths and serious injuries are preventable.

Universal design and accessibility

Universal design

Universal design means that walking and biking facilities are usable by all individuals, regardless of age, ability, or situation and without the need for special adaptation. When transportation facilities incorporate principles of universal design, all users benefit. Some common examples of universal design include curb ramps for wheelchair access that benefit all pedestrians, FUTS trails with moderate slopes and a firm, compacted surface to accommodate wheelchair use, and pedestrian push buttons located at a height that is reachable by everyone.

Principles of universal design

- Equitable use
- Flexibility in use
- Simplicity and intuitive use
- Perceptible information
- Tolerance for error
- Low physical effort
- Space and room for approach and use

Accessibility

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination on the basis of disability. For purposes of the law, a disability is defined as a physical or mental impairment, either permanent or temporary, that substantially limits one or more major life activities. ADA became law in 1990 and was amended in 2008 to broaden the definition of disability and extend protections to more people. In Flagstaff, American Community Survey statistics indicate that one out of every 11 residents have some form of disability.

In the 30 years since ADA became law, several sets of standards and guidelines have been adopted or published. Most include some provisions for pedestrian facilities and accommodation:



- **ADA Accessibility Guidelines (ADAAG)**. Guidelines that apply primarily to buildings and building sites, but include several provisions for sidewalks such as running slope, cross slope, obstructions, and curb ramps.
- **ADA Standards for Accessible Design**. The standards are based on and similar to ADAAG, but they are enforceable standards rather than guidelines.
- **Public right-of-way accessibility guidelines (PROWAG)**. These guidelines specifically address sidewalks and other pedestrian facilities in the public right-of-way, but they have not been formally adopted as standards. As a result, they serve as a guide for "best practices" for accessible pedestrian accommodation.
- **Shared use path accessibility guidelines**. A proposed, but not adopted, supplement to PROWAG that is specific to pedestrian and bicycle paths.

Equity

Low-income neighborhoods, communities of color, and other traditionally disadvantaged populations and groups tend to be underrepresented in transportation planning processes. However, the same populations and groups are often disparately affected, particularly in regard to mobility and reliance on walking, biking, and transit.

There are a number of ways to promote equity in transportation planning:

- **Build relationships**. Establish connections and build good relationships with neighborhoods, groups, and individuals in advance.
- **Let communities lead**. Local communities and groups have the best perspective of their situation; listen and learn from them, give value to their contributions, and share decision making with them.
- **Evaluate and measure**. Routine equity analyses of transportation plans and programs can help ensure that equity considerations are included and addressed in a meaningful way.
- **Share benefits**. Walking and biking provide a number of benefits generally; however, it is important to tailor plans and projects so the benefits are specific and meaningful to the community or neighborhood.
- **Intentional outreach**. Outreach efforts must be concerted and intentional to reach populations and communities that do not typically participate in transportation planning processes. Opportunities for meaningful participation and engagement should be brought to the community.
- **Build capacity**. Support the development of leadership and participation within disadvantaged communities and groups.
- **Recruit participation**. Include representatives from underserved communities and populations on transportation boards and commissions. This effort needs to be based on a foundation of long term and committed engagement, so representation does not become tokenism.

Transit

First/last mile

This concept refers to the connections that transit riders need to make at both ends of a transit trip, such as getting from home to the bus stop at one end and getting from the bus stop to their destination at the other end.



For short distances, walking is a viable option for first/last mile connections to a bus stop. However, if sidewalks and crossings are not present, or if the pedestrian environment feels unpleasant or unsafe, then even a quarter mile walk may

feel too far to walk. On the other hand, in excellent pedestrian environments, transit patrons will be willing to walk further to access transit.

Bicycling to transit can significantly extend the distance patrons are willing or able to travel to get to a bus stop, but only if complete and comfortable biking networks that connect to the stop are available. A bike-sharing system is beneficial because it allows transit riders to access transit by bike without owning a bike. Secure bike parking, especially long-term bicycle storage, at the station or destination also supports biking to transit.

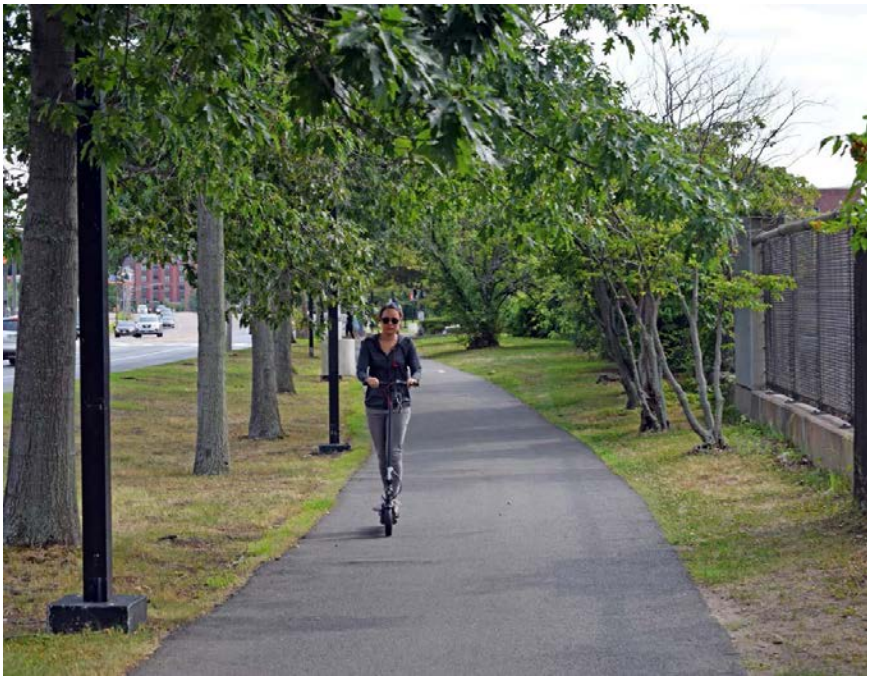
Transit oriented development

Transit oriented development (TOD) describes dense, compact, mixed-use development centered around transit stops. At a community level, TOD encourages land use patterns that cluster higher-density activity centers near transit stops and lines. At a site level, TOD incorporates site design principles such as direct walkways, frequent crossings, and walkable streets to strengthen pedestrian access between the development and the transit stop.

Micromobility

Micromobility is a rapidly evolving category of light-weight individual transportation devices, often driven by an electric motor, including electric scooters, e-bikes, Segways, electric skateboards, and hoverboards. Electric micromobility devices can be more efficient, affordable, and accessible than cars, and they represent a low-carbon mode of transportation to replace cars for daily vehicle trips.

The City's challenge is to encourage the potential mobility benefits of these devices without creating conflicts with pedestrians and bicyclists. There is typically an expectation that new devices will compete for the same space – sidewalks, bike lanes, and FUTS trails – that in many cases is already insufficient for pedestrians and bicyclists. However, as use of these devices expands, it may result in a reduction in motor vehicle use and suggests a potential reallocation of roadway space currently given to motor vehicles.



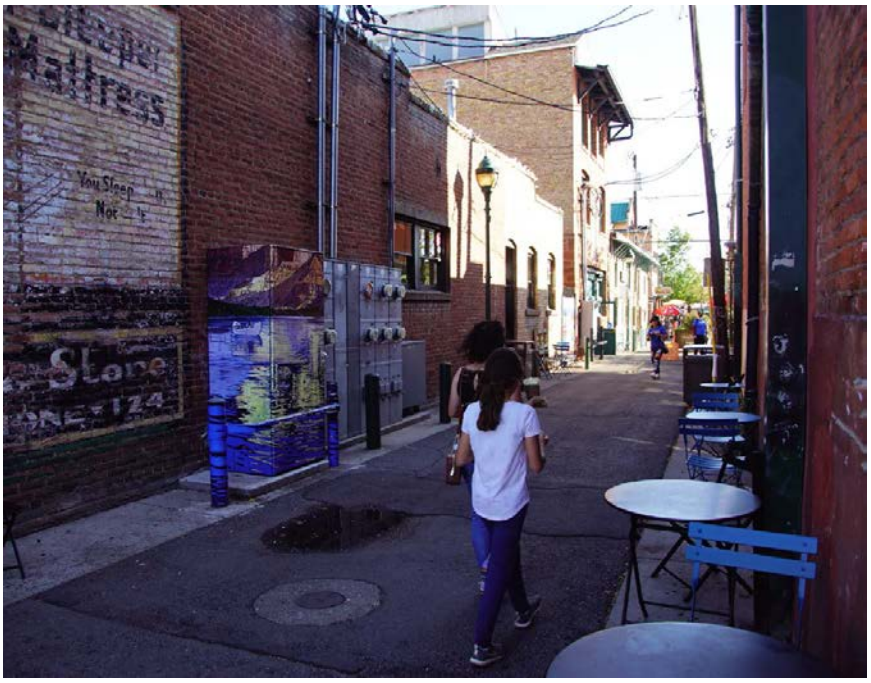
Denver, Colorado *Toole Design Group*

Land use and urban form

This section explores how walking and biking are affected by land use, city form, and urban design. Flagstaff's Regional Plan establishes a community vision for land use and urban form and provides considerable guidance regarding future growth and development patterns.

Land use

Walking and biking are fundamentally affected by patterns of land use, development, and growth. Compact, dense, mixed-use development patterns support walking and biking, while sprawling, low-density, segregated-use patterns encourage vehicle use and are not conducive to travel on foot or bicycle.



- **Compact form**. Infill development, as opposed to growth at the periphery of the community, uses existing resources and infrastructure more efficiently, keeps distances short for walking and biking, and helps keep neighborhoods at a human scale.
- **Density**. Means more residences, shops, services, and jobs are clustered in a compact geographic area, which reduces travel distances and creates more opportunities for walking and biking.
- **Mixed use**. A diversity of uses within a neighborhood or in proximity to one another makes it possible to walk or bike for daily needs; for example, biking to work or school, walking around the corner to get lunch, or making a short bike ride to an appointment.

MetroPlan's Trip Diary Survey provides empirical evidence of the relationship between land use patterns and walking and biking. In Flagstaff's core area – which is generally compact, dense, and mixed-use – almost 60 percent of trips are made by walking, biking, or transit. In contrast, only 11 percent of trips are made by walking, biking, or transit in the rest of Flagstaff, which is more low-density and vehicle-dominated in character.

Urban design

The pedestrian and bicycle environment is significantly affected by elements of urban design, including building setbacks and orientation, architecture and building facades, streetscaping, and landscaping. Most people – pedestrians and bicyclists included – respond positively to active, engaging, interesting, and pleasant streets and buildings. Urban design can also dramatically impact the perception of distance; people are much more willing to walk or bike longer distances if the area they are traveling through is interesting and appealing.

While urban design considerations are typically thought of as relevant to urban contexts, the principles are readily adaptable to suburban environments as well. In many ways, good design is even more imperative in suburban environments to overcome the negative effects that low-density, sprawling development, and isolated land uses have on walking and biking. Suburban areas may be more difficult to transform into walkable urban places, but there is still much that can be done to enhance walkability and bicycle friendliness overall.

Placemaking

Placemaking describes a process of transforming the public realm into quality places for people. Placemaking strengthens the connection between people and the places they live and helps create public spaces that contribute to community character and a sense of well-being. Urban design, public art, landscaping, and amenities are all aspects of placemaking.



Streets are our most fundamental and ubiquitous shared public space and consequently have tremendous potential for placemaking. Streets are generally considered in functional terms for cars and parking, although historically streets have served a variety of community functions, including recreation, conversation, celebration, protest, gathering, interaction, shopping, performance, culture, art, and lingering.

Pedestrian and bicycle facilities are both elements of placemaking and greatly enhanced by placemaking. Walking and biking function at a human scale, so small, local placemaking gestures in conjunction with pedestrian and bicycle networks are often the most meaningful.

Examples of placemaking for walking and biking include:

- Artistic or decorative elements incorporated into the design of transportation infrastructure.
- Formal public art installations located along FUTS trails and other walking and biking networks.
- Seating areas, benches, pocket parks, community gardens, plazas, and other civic spaces located along FUTS trails and other walking and biking networks.
- Interpretive signs, historic plaques and markers, and memorials that acknowledge and celebrate historic locations and neighborhoods.
- Community events that promote walking and biking, including themed walks and bike rides, cyclovias, open streets, and neighborhood gatherings.
- Streetscaping, landscaping, and other pedestrian amenities along street corridors.

Connectivity

The pattern of streets in the community, and the resulting level of pedestrian and bicycle connectivity, is another important determinant for the pedestrian and bicycle environment. There are two models that describe street networks – the traditional grid and the suburban loops-and-lollipops – that represent opposite ends of a spectrum.

Traditional grids have several advantages for walking and biking, including allowing multiple routes and options for walking and biking, and reducing distances and out-of-direction travel. A loop-and-lollipop network works against walking and biking in a number of ways; large block sizes and circuitous street patterns limit route options for walking and biking and require out-of-direction travel, and the hierarchical street pattern can force pedestrians and bicyclists onto wider, faster, busier arterial streets that are not comfortable and difficult to cross.

Regardless of the street network, it is possible and often desirable to create a pedestrian and bicycle grid that is denser than the street network and provides a higher degree of connectivity for walking and biking. Where the street network is not well-connected, and blocks are very large, short pedestrian and bicycle connections between streets, neighborhoods, commercial areas, and

Street connectivity



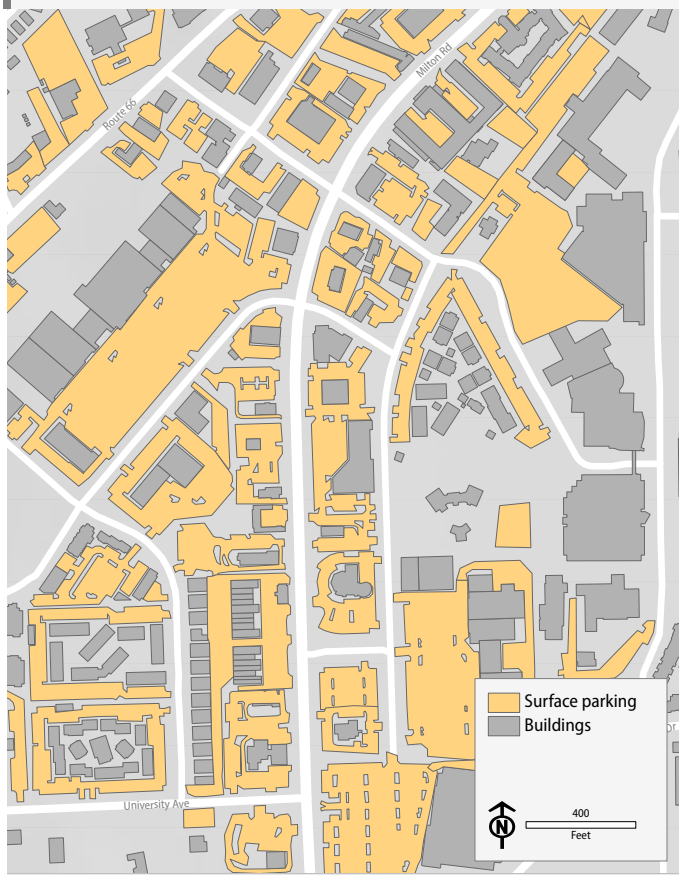
Traditional grid

Loops and lollipops

other destinations can significantly improve non-motorized access. FUTS trails can also provide additional access within a neighborhood, as well as connectivity to surrounding areas. Major streets in an area can form barriers and interrupt the pedestrian/bicycle grid unless frequent crossings are provided.

The density or spacing of the non-motorized grid should vary by context and area type. In an urban area or activity center, grid spacing should not exceed 300-350 feet, and in some cases can be as small as 150 feet. In downtown Flagstaff, for example, alleys are important pedestrian facilities and reduce the grid spacing to about 175 feet. In suburban areas, maintaining a consistent grid is more difficult, but should be no more than 660 feet (an eighth of a mile). The frequency of crossings on major streets often increases the spacing to 1320 feet (quarter-mile) or more.

Surface parking along Milton Rd



Parking

Vehicular parking lots often work against walking and biking in a number of ways:

- Parking lots can take up large areas of land, which works against density and compact form and the benefits that go with them.
- Abundant parking provides an encouragement to drive.
- Parking lots at the front of a building create a barrier for pedestrians between the building and the street that is challenging to cross.
- Parking located in front of buildings and along the street creates expanses with little interest or appeal to pedestrians and makes it difficult to maintain a pedestrian scale.

At the same time, parking can be a difficult community conversation because there is often an uneasiness with the idea of providing less parking and a concern that parking will not be convenient or available when it is needed. An inadequate supply of on-site parking is perceived to result in a number of problems, including blocked driveways, parking on sidewalks and in landscaped areas, and parking demand being pushed into other areas.

There are a number of ways to manage the demand for parking and mitigate its impacts:

- **More on-street parking**. On-street parking helps reduce the demand for on-site parking

spaces, and can provide additional benefits like providing a buffer for pedestrians and reducing traffic speeds.

- **Encourage shared parking**. Sharing parking between adjoining parcels and uses can help even-out parking demand across a larger area.

- **Parking structure**. A parking structure in Downtown or the Southside would help ease concerns about the availability of parking, and allow conversion of street parking to public space.

- **Unbundle parking fees from rent**. Unbundling allows residents and tenants to pay for parking only if they need it. This helps lower the cost of housing, mitigates demand for parking, reduces vehicle trips, and incentivizes walking, biking, and transit.

- **Reduce demand**. Encouraging other City incentives and requirements can help reduce demand for parking, such as bike share, enhanced bike parking, transit passes, and car share options.

- **Review parking minimums**. Current minimum standards for parking in the Zoning Code should be reviewed to match actual demand and not encourage excess parking. Parking minimums in urban areas and activity centers can be lower than suburban areas.

Area types and activity centers

The Regional Plan describes three different area types – urban, suburban, and rural – to help define the character of existing development and plan for future growth and redevelopment. Area types are also useful for defining the context and planning appropriately for pedestrian and bicycle accommodation.

Urban

Urban areas include older, historic areas like Downtown and the Southside that were developed prior to the automobile and contribute to Flagstaff's unique character. Land use in urban areas tends to be denser, more compact, and mixed-use. Urban areas are the most walkable and bikeable due to their density, compact form, and a tight grid street pattern. Streets tend to be narrower, slower, and more inviting, although there is often less space available for dedicated walking and biking facilities.

Walking and biking should generally be favored over automobile travel in urban areas, especially when there is limited room in the right-of-way and competition for space. Streets should be designed for an urban context, as opposed to imposing a suburban-style street into an urban environment.

Suburban

Land use and street patterns in suburban areas are generally less conducive to walking and biking for a number of reasons. Land use tends to be low-density, homogenous, and isolated by large roads and parking lots. Block sizes can be very large, and the street grid is often disconnected.

Streets are designed to prioritize vehicle movement, and there is abundant parking. Streets are hierarchical from local to arterial, so those most useful for travel are also the widest, fastest, and busiest.

As a result, suburban areas require additional effort to make them more pedestrian and bicycle friendly. Over time, land use patterns in suburban areas can be transformed to become more dense, compact, and mixed use. Suburban streets can also be transformed to be less automobile-dominated and more like complete streets and community places. Additional non-motorized corridors and connections create better connectivity for pedestrians and bicycles.

Rural

This area type is defined by very large lots and very low-density residential neighborhoods. The region's outlying communities fall into this category, but only a few areas within Flagstaff city limits are considered part of the rural area type. Streets in rural areas typically provide little or no accommodation for walking and biking. Additionally, roadway connections between Flagstaff and its outlying communities are often highways which are not conducive to walking and biking.

Local streets in rural areas should provide sidewalks as a minimum accommodation for pedestrians. Collector and arterial roadways should always accommodate pedestrians and bicyclists, including sidewalks and bikeways.

Activity centers

Activity centers are locations identified in the Regional Plan as appropriate for clusters of mixed-use, compact, dense development or redevelopment. The area included within an activity center is defined by a quarter-mile pedestrian shed and based on a five-minute walking distance. Activity centers represent areas where land use and development patterns can be transformed over time to better support walking, biking, and transit. Activity centers also provide an opportunity for enhanced pedestrian and bicycle accommodation.



NAU campus

In this discussion of land use and urban form, the Northern Arizona University (NAU) campus warrants special consideration. With nearly 30,000 students, the NAU campus is the most substantial generator and attractor of travel trips in Flagstaff. The NAU campus is also centrally located and part of Flagstaff's core area, along with Downtown and Southside. This creates enhanced potential for walking

and biking, and it means the campus occupies a prominent space in our overall pedestrian, bicycle, and FUTS network.

Multiple, convenient, non-motorized points of access between the campus and the community are needed to better facilitate walking and biking trips to campus. Accommodating pedestrian and bicycle travel through campus is also important for Flagstaff's overall walking and biking networks. For bicyclists travelling from southern neighborhoods to Downtown, for example, the best travel routes go through campus.

NAU is a separate governmental entity and outside of City jurisdiction, which makes cooperation and coordination with NAU paramount to any pedestrian and bicycle efforts.

7 Design guidance

This chapter examines the impact of street and intersection design on walking and biking, and provides general information on design features for pedestrian and bicycle accommodation.

Streets

The design, function, and character of streets and intersections are significant determinants of walkability and bicycle friendliness, beyond the simple provision of basic facilities like sidewalks and bike lanes. This chapter acknowledges the impact of street and intersection design on walking and biking, and the information presented here provides detailed guidance for more comfortable pedestrian and bicycle accommodation.

Right-sizing

Right-sizing refers to the principle of planning for streets that are not wider than they need to be. Wide streets are detrimental to walking and biking for a number of reasons; crossing distance is increased, vehicle speeds tend to be faster, and they are generally less comfortable for walking and biking. There are four street elements to consider in right-sizing:

- **Travel lanes**. Multiple travel lanes (two or more in each direction) can result in faster vehicle speeds, more difficult and less safe crossings, and generally less comfortable streets for walking and biking.

- **Lane width**. Excess lane width also encourages faster vehicle speeds and adds to crossing distance. Where street space is constrained, wide travel lanes take space that could be otherwise used to add or enhance pedestrian and bicycle facilities. Standard lane width for arterials and collectors in Flagstaff is 11 feet, or 12 feet for designated truck routes. For many streets, narrower lane widths would be possible, and in fact are already in use on some streets.

- **Additional lanes at intersections**. Right and left turn lanes are often added at intersections to improve traffic flow. This can result in intersections that are much wider than the adjoining street segments. It also makes them more difficult, and in some cases less safe, for crossing pedestrians and bicyclists.

- **Right turn lanes and bus pull outs**. Right turn lanes and bus pull-outs are often added along major street segments to improve traffic flow. They are intended to reduce delay to through vehicles caused by right-turning vehicles or stopped buses; however, they can also have the effect of allowing increased vehicle speeds.

When additional travel or turn lanes are considered for any street, there should be a thorough review of options and trade-offs, including whether additional lanes are needed, if induced traffic will nullify any benefits from increased vehicle capacity, if there are safety benefits or issues, if other options to increase capacity have been considered, whether the context is suitable for a

wide road or intersection, if there will be disparate impacts on vulnerable roadway users, if all potential community impacts have been considered, and if the benefits outweigh the adverse impacts.

Road diets

In a few cases, where streets have more lanes than are needed based either on current or projected traffic volumes, removal of unnecessary lanes should be considered. The space created by decommissioning lanes would be very beneficial for expanded pedestrian and bicycle facilities or community space. Candidate streets for road diets might include:

- Aspen Ave – Humphreys to Elden
- Beaver St – Butler to Columbus
- Birch Ave – Humphreys to Elden
- Butler Ave – Continental to end
- Country Club Dr – Soliere to Oakmont
- Fremont Blvd – Mountain to Kramer
- Lake Mary Rd – High Country to J.W. Powell
- San Francisco St – Butler to Columbus

Speed management

Slowing vehicle speeds is one of the most effective ways to enhance safety for all road users, especially vulnerable users. Slower speeds reduce the likelihood that crashes will occur by increasing reaction times for drivers, decreasing required braking distance, and expanding a driver's field of vision. Slower speeds also reduce the severity of crashes; a pedestrian struck by a vehicle at 40 mph has a 20 percent chance of survival, but at 20 mph a pedestrian's survival rate increases to 80 percent.



Slower speeds are also essential to creating streets that are more comfortable for walking and biking, less intimidating to cross, less likely to function as a community barrier, and more likely to be a community place. Roadway design, character, and context elements can be the most effective techniques for managing speed:

- Allow on-street parking on more arterial and collector streets. This also helps reduce the need for large parking fields on private

parcels.

- Keep streets from being overbuilt with extra lanes and wider-than-needed lane widths.
- Add turn lanes and bus pull-outs sparingly. Where turn lanes are used, design them to be slow speed.
- Include regular crossings for pedestrians and bicyclists, including flashing beacons and enhanced crossings.
- Incorporate streetscaping, including street trees and landscaped medians, into roadway design.
- Design street geometry, curves, and alignments to help lower speeds, based on context and functional class.
- Include bump-outs, neckdowns, median islands, and other traffic calming features in street design.
- Use context and street hierarchy to help guide street design and set appropriate speeds. Higher volumes on non-residential streets allows slower speeds and reduced volumes on neighborhood streets.
- Provide visual clues in street and streetscaping design for transitions from one context to another, such that drivers feel like they should slow down when the street enters a neighborhood.
- Design intersections and roundabouts to encourage slower speeds.
- Include enhanced bicycle facilities along the edges of the street, like buffered and separated bike lanes.
- Encourage pedestrian and bicycle activity. Drivers are more mindful of walkers and bikers when they regularly expect to encounter them.
- Place buildings, outdoor areas, community space, and other activities close to the street.

Intersections

Intersections provide a place for pedestrians and bicyclists to cross busy streets, especially when vehicle traffic is controlled by a traffic signal or stop signs. However, large, busy intersections can also be intimidating for pedestrians and bicyclists, and intersections with multiple turning movements create multiple potential conflicts points between vehicles and pedestrians or bicyclists. In these circumstances, large intersections can function as a barrier for multimodal transportation networks.

Intersections should be kept compact and small to help minimize crossing distances and crash

exposure for pedestrians and bicyclists. Slip lanes and other features that encourage higher speeds should be generally avoided. Crossings should be simple and easy to understand, with crosswalks placed where pedestrians want to cross and where drivers will see them. Use smaller radii at corners to decrease crossing distance, slow turning vehicles, and simplify placement of curb ramps.

Traffic signals

Traffic signals are used at higher volume intersections to assign right-of-way and regulate the flow of traffic. While traffic signals provide accommodation for crossing pedestrians, they do not guarantee comfort or safety. There are a number of signal elements that support walking and biking, including bicycle detection, accessible pedestrian signals, right-turn-on-red restrictions, and lead pedestrian or bicycle intervals.

Roundabouts

Roundabouts can be more efficient than a signalized intersection because they slow vehicular traffic but allow it to keep moving. There are fewer conflict points, and no left turns at roundabouts, so there are typically fewer crashes. The efficiency of roundabouts can help avoid the need for large multilane intersections.



Woodinville, Washington *Toole Design Group*

- **Pedestrians**. For pedestrians, crossings can be safer and less difficult than at conventional signalized intersections because vehicle traffic is slowed, crossings are broken into individual segments, there are only a few traffic lanes to cross, and there are fewer points of conflict with turning vehicles.

- **Bicyclists**. For bicyclists, there are two options for riding through a roundabout. Bike lanes do not continue through a roundabout, so a cyclist either takes the lane and proceeds through as a vehicle or exits onto the adjoining sidewalk to proceed through as a pedestrian. In the first case, many bicyclists will only feel comfortable where traffic speeds and volumes are low through the roundabout. For the second case, it is important to include adequate accommodation for bicyclists who choose to leave the roadway, including exit/entry ramps and wide pathways or separated lanes around the perimeter of the roundabout.

Multi-lane roundabouts operate somewhat differently than single-lane roundabouts; vehicle speeds are more difficult to slow, and there are additional lanes to cross. As a result, research

suggests that some of the safety benefits for pedestrians and bicyclists at single-lane roundabouts are compromised at multi-lane roundabouts. Similarly, slip lanes or channelized rights at roundabouts make it more difficult to manage speeds and provide another lane to cross.

Pedestrian facilities

This section includes an in-depth review of best practices and design guidance for a variety of pedestrian and bicycle facilities. Attention to detail is critical to making walking and biking functional and attractive; the information presented here is intended to provide that detail.

Sidewalks



Sidewalks are the most basic and important facility for walking and a fundamental component of a pedestrian-friendly community. Although they are sometimes taken for granted, or their importance is overlooked, sidewalks provide numerous benefits by:

- Providing a place for pedestrians, away from vehicles, that makes it comfortable and appealing to walk.
- Encouraging people to be more active; people who live in neighborhoods with sidewalks are more likely to be active on a regular basis.
- Enhancing safety for walking; sidewalks reduce pedestrian crashes up to 88 percent.
- Benefitting property values; houses with sidewalks have been found to sell for more, and in less time, than houses without sidewalks.
- Providing public/community space that promotes social interaction and makes neighborhoods more vibrant.
- Promoting equity in neighborhoods; all residents can use sidewalks, regardless of age, ability, or income.

The minimum required width for sidewalks in Flagstaff is five feet for local and collector streets and six feet for arterials, although the width varies and is generally wider in transect zoning

districts. A review of current standards is recommended to consider wider sidewalks, and to refine width requirements to cover a range of land uses, contexts, and area types.

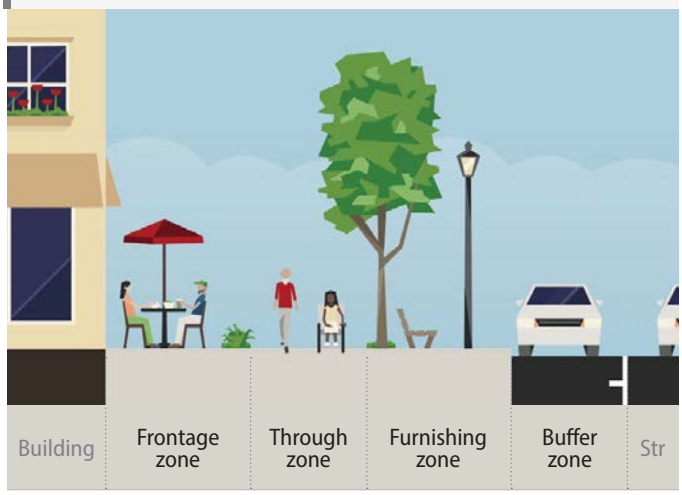
Where sidewalks are missing or located only along one side of a street, a "goat path" invariably develops by people walking where the sidewalk should be. While it may be tempting to consider situations where sidewalks are not be needed on one or both sides of a street, this line of inquiry is generally proven wrong by subsequent patterns of use. Basic pedestrian accommodation dictates that sidewalks should always be present on both sides of the street.

Pedestrian zones

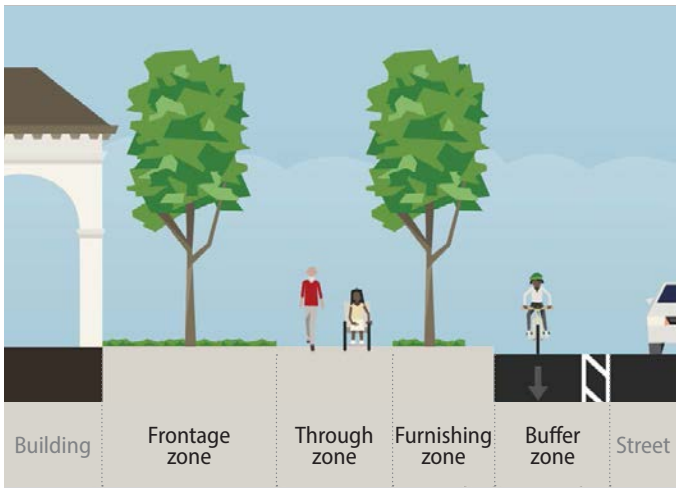
While the term "sidewalk" generally refers only to the strip of pavement where people walk, the concept of pedestrian zones introduces a more encompassing term that comprises four distinct components:

- **Pedestrian through zone**. Describes the primary pathway or walking surface for pedestrians that runs parallel to the street. This area is intended for pedestrian travel, and as a result, it should be continuous, follow a direct alignment, and be free of encroachments and obstructions.
- **Furnishing zone**. This is the strip of land between the street and the through zone. In urban areas, the furnishing strip can be hardscaped and is the preferred location for a variety of street elements, such as light poles, benches, and fire hydrants. In a suburban context, the furnishing zone is referred to as a parkway and can be landscaped.
- **Frontage zone**. Refers to the area from the through zone to the front of buildings. Various private elements belong here, including sidewalk cafes, storefronts, and outdoor sales. This zone can also support the public realm in the form of seating and gathering areas, public art, plazas, and streetscaping. The character of the frontage zone can vary by context: hardscape elements are appropriate in urban areas, while in suburban areas, the frontage zone can be a landscape buffer or a natural area between the sidewalk and a building or a parking lot.

Pedestrian zones



Urban



Suburban

- **Buffer zone**. Although not always present, this comprises the additional space between the furnishing zone and vehicle travel lanes on the street. The buffer zone includes on-street parking, bike lanes, and curb extensions or swellings.

All four zones are important elements for pedestrians and should be considered as integral to the sidewalk.

Furnishing strips and parkways

Parkways and furnishing strips, as described in the section above, serve a number of valuable functions for pedestrian accommodation. Parkways:

- Serve as a buffer between pedestrians and the street and contribute to pedestrian safety and comfort.
- Provide a place to store snow cleared from the street. When a parkway is not present, snow is either plowed onto the sidewalk or into the bike lane.
- Collect cinders in the winter and help keep them away from the walkway.
- Keep construction signs, trash bins, and other obstructions from blocking the sidewalk or bike lane.
- Create space for street trees, utilities, and streetscaping.
- Make it easier to maintain accessible sidewalk grades across driveways and curb ramps.

The furnishing strip or parkway is sometimes eliminated in street projects or new development, particularly in circumstances where right-of-way is restricted. For infill or retrofit projects, the parkway or furnishing strip should only be eliminated for good cause and when no alternatives exist. Mitigation should be required, such as a wider sidewalk or other buffers. In greenfield development, the furnishing strip or parkway should always be provided.

Bicycle facilities

Bikeways

Bikeways are a network of linear transportation corridors intended to accommodate bicycle use. Historically, Flagstaff has accommodated bicyclists with conventional bike lanes on collector and arterial streets, as well as paved FUTS trails along a few streets to provide an alternative for bicyclists who are not comfortable on the street.

This document introduces a more robust plan for a bikeways network based on the following characteristics:

- **Low stress**. Most people will feel safe and comfortable riding a bicycle, regardless of their ability or experience. The network is intended to appeal to the interested-but-concerned segment of the population, an estimated 60 percent of the population who would like to ride more for commuting and errands if comfortable bicycle infrastructure were in place.

- **Hierarchical**. The planned network is organized around a hierarchy of primary, secondary, and third level bikeways. The hierarchy helps guide a variety of policies and practices for bikeways; primary and secondary bikeways are prioritized for construction and implementation, are more likely to include separated facilities, and are considered priority routes for maintenance, snow clearing, sweeping, and closures. The hierarchy also plays a valuable role in wayfinding.

- **Comprised of a variety of facilities**. The planned bikeways network is comprised of a variety of facilities, which are categorized based on the extent of separation from traffic:

  - **Shared street facilities** include bike routes and bike boulevards on low-volume and low-speed neighborhood streets.
  - **Dedicated facilities** like conventional and buffered bike lanes provide bicyclists with their own dedicated space within the roadway.
  - **Separated facilities** like separated bike lanes, cycletracks, and FUTS trails physically remove bicyclists from traffic.

- **Includes intersections and crossings**. A variety of intersection and crossing treatments are planned as critical components of a low stress bikeways network, including enhanced crossings, separated intersections, and grade-separated crossings.



Vancouver, British Columbia *Carl Sundstrom*

- **Comprehensive and cohesive**. The network is planned to allow bicyclists to travel comfortably and conveniently to destinations and neighborhoods throughout Flagstaff. The system is unified through a system of wayfinding, identification, and branding.

Bicycle parking

Bike parking encourages bicycling because it provides a location for secure bicycle storage when bicyclists reach their destination. When bike parking is unavailable, inconvenient, or not functional, people may be discouraged from bicycling. Additionally, accommodating bicycle

parking eliminates the clutter, hazards, and damage that can result from unintended or unplanned bicycle storage.



At locations where bikes will be left or stored for longer periods of time, such as employment centers, student housing, transit centers, and high-density residential development, there is a need for greater security and protection from the weather. Options for long term parking include shelters, lockers, cages, and indoor rooms. Flagstaff's Zoning Code includes requirements for short term bike parking, but does not cover longer term bike storage.

Bike parking for special events encourages bicycling, minimizes the traffic impacts of events, and reduces demand for vehicle parking. Some opportunities for special event parking include encouraging community groups to sponsor valet bike parking, adding permanent bike parking at event venues, and working with event organizers to provide banks of temporary bike parking.

Bicycle support facilities

A variety of other facilities provide support and encouragement for bicycling:

- **Bike stations**. Bike stations or hubs are facilities that provide a variety of services, typically intended for commuter cyclists, that might include secure indoor bicycle storage, showers and changing rooms, repair services or self-serve repair stands, sale of basic parts like inner tubes, lights, or locks, and commuter assistance and information. Stations and hubs are scalable and can range from a basic self-serve facility to a deluxe facility that has regular staff and offers repair services, retail sales, or even a coffee shop. Space in public parking garages is often used for bike stations.

- **Repair stands**. Essentially a micro version of a bike station, these small, self-service repair stands typically include a place to hang a bicycle for repairs, an air pump, and basic tools. Because they are small and inexpensive, they can be scattered throughout the community at a variety of public and private locations.

- **Bicycle collectives**. A bicycle collective – or community bike shop, bike kitchen, or bike co-op – is typically a non-profit, community-based entity that provides a variety of services for low-

income and other disadvantaged populations, such as inexpensive or free bicycles, low-cost or free repairs, rentals, tool libraries, bicycle and parts recycling, earn-a-bike programs, and safety and maintenance classes. Such facilities increase bicycle access to underserved populations that rely on walking and bicycling for mobility.

Trails

Flagstaff Urban Trails System (FUTS)

The Flagstaff Urban Trails System, or FUTS, is a citywide network of shared use pathways that are used extensively by walkers, bicyclists, and other users for both recreation and transportation. The current network of FUTS, which comprises 59 miles of multi-use pathways, is an important pedestrian and bicycle facility and a complement to on-street networks.



About half of the miles of existing FUTS trails are paved, either in concrete or asphalt, and half consist of a hard-packed, aggregate surface. FUTS trails are generally eight or ten feet in width to allow mixed pedestrian and bicycle traffic. With a few exceptions, FUTS trails are operated and maintained by the City.

FUTS trails offer a diverse range of experiences for walking and biking; some trails are located along busy streets, while others traverse beautiful natural places – canyons, riparian areas, grasslands, meadows, and forests – all within the urban area of Flagstaff. The system connects neighborhoods, shopping, places of employment, schools, parks, open space, and the surrounding National Forest, and allows users to combine transportation, recreation, and contact with nature.

Transportation and recreation

FUTS trails serve both a transportation and a recreation function. Although some trails are used primarily for transportation, and others function mainly for recreation, most strike a balance somewhere in between. In fact, FUTS are most successful when they serve both functions. For example, an ideal FUTS trail is one that gives access to destinations and serves a meaningful transportation function, but also traverses natural areas and provides an enjoyable and pleasant experience.

FUTS as bikeways

Flagstaff's practice for bicycle accommodation along busy streets has consisted of conventional bike lanes on street and FUTS trails adjacent to some streets for those bicyclists who are not comfortable in the bike lane. Implementation of a low stress bikeways network, as described in the section above, means that in many locations FUTS trails may no longer be required to function as an alternative for bicyclists along busy streets. FUTS trails, howeverm, will remain an important component of the bikeways network.

Greenways and open space

Greenways describe linear, open corridors along FUTS trails in a variety of conditions and configurations. In some cases, greenways can be expansive in scale and part of the regional park and open space system. In other cases, a greenway can be narrow and specific to the trail. Parks and recreation space, natural areas, landscaping, and undisturbed portions of a site along a trail can all function as a greenway.



The presence of a greenway can significantly enhance the recreational or commuting experience for trail users by creating a more pleasant experience, providing a way to access nature at a local level, and offering a contrast or respite from urban development. At the neighborhood or regional level, greenways can help organize neighborhoods and define urban form, create corridors between neighborhoods and regional parks and open space, and complete a regional interconnected open space system. FUTS trails often follow natural corridors, so there is already substantial overlap between FUTS and the linear greenways system of washes, hillsides and canyons throughout Flagstaff.

There are two options available to help secure and implement greenways, both of which will require further exploration and refinement, as well as adoption of guidelines and standards. The first is to review current Zoning Code standards for ways to secure greenways as part of private development, including resource protection standards, civic space, and open space requirements. The second is to plan for greenways in conjunction with the City's overall open space strategy and plan, to ensure the City is positioned to take advantage of emergent opportunities for acquisition and preservation.

Other trails and facilities

A series of other kinds of trails and trail facilities are planned as complementary to the main FUTS system. These are described in more detail in Chapter 8, and include the following:

- Neighborhood trails
- Singletrack trails
- Singletrack access trails
- Forest access points
- Trailheads and trail hubs
- Outlying neighborhood connections

Crossings

This section describes facilities that allow pedestrians and bicyclists to cross busy streets safely and comfortably. Two general categories are described here: at-grade and grade-separated crossings.

At-grade crossings

At-grade crossings are an essential component of the pedestrian and bicycle network, and the ability to cross a street comfortably and safely is as important to walkability and bicycle-friendliness as walking or biking along the street. In general, additional formal crossings would be beneficial for walking and biking along most major streets in Flagstaff, and finding opportunities to increase available crossings is an important component of this plan.

Pedestrian behavior is a function of human nature. Pedestrians wish to cross the street for the basic purpose of reaching a destination on the other side. Where formal crossings are not present or are spaced far apart, pedestrians will cross where it is most convenient, even if it involves an element of risk.



Crossing hierarchy

Appropriate facilities for an at-grade crossing are determined by the characteristics of the street at the crossing location; in particular, the speed and volume of traffic, the number of lanes to cross, the presence of a raised median in the middle of the street. In general, streets that are higher volume and

speed, have more lanes to cross, and lack a raised median require additional facilities to make the crossing safe and comfortable for pedestrians and bicyclists.

Crossing types

Four types of crossings are considered here, listed generally in order of how much assistance is provided for the crossing.

- **Beacon crossing**. Crossing beacons are pedestrian-activated flashing lights that are appropriate on streets where the width, volume, and speed of traffic make crossing difficult without the aid of the beacon. Two types of pedestrian-activated flashing beacons are presently in use in Flagstaff:
  - **Round or rectangular rapid flashing beacons** (RRFB) feature an amber flashing light that draws attention to the crossing and reminds drivers to yield to pedestrians in the crosswalk
  - **Pedestrian hybrid beacons** (PHB) are a traffic control device with red lights that require vehicles to stop for pedestrians. They are sometimes referred to as a HAWK crossing.

- **Enhanced**. Enhanced crossings include a variety of features that help slow traffic, shorten crossing distances, break crossings into separate parts, increase visibility, or in general make the crossing safer and more comfortable. Enhanced crossing treatments may include median islands, curb extensions, landscape features, high-visibility markings, advance warning signs, and pedestrian-scaled lighting. Enhanced crossings are appropriate on moderate to high speed and volume roadways.

- **Median**. This type of crossing uses median islands in a series at several locations along the length of the corridor. Median crossings are suitable for three-lane streets that include one travel lane in each direction plus a two-way center lane; the medians can be added along sections of the center turn lane. Other enhanced features can be considered as well when necessary or beneficial.

- **Basic**. This includes basic crossing features, such as curb ramps and crosswalk markings (in suitable locations), at defined intersections along minor collector and commercial street corridors. For high use crossings, additional features like pedestrian lighting, crossing signs, and in-street crossing markers can be used.

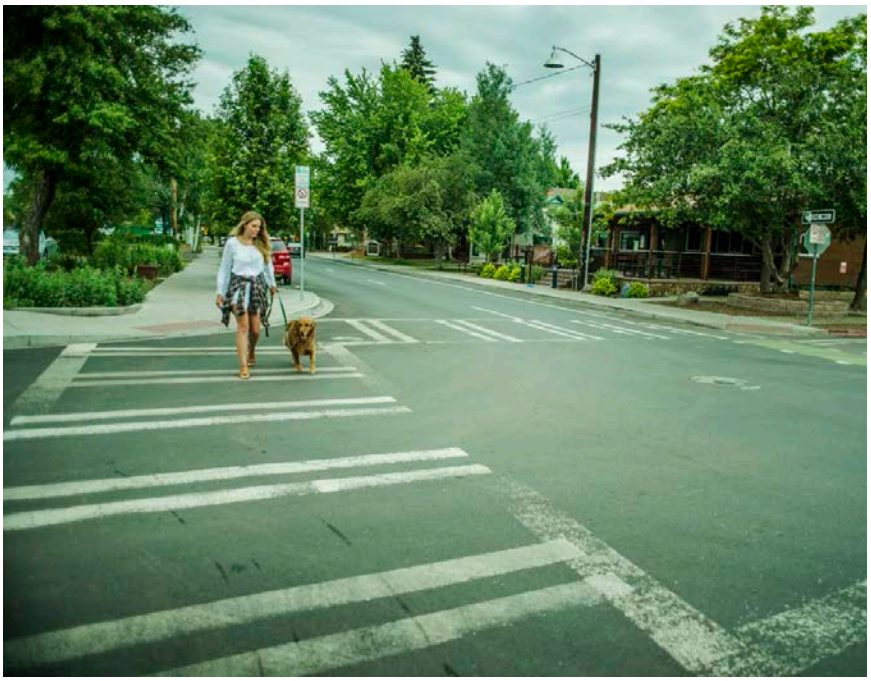
Crosswalks

Per Arizona Revised Statutes § 28-601, legally defined crosswalks exist at all street intersections, whether or not they are painted with crosswalk markings. Legal crosswalks also exist at non-intersection, mid-block locations when they are distinctly marked.

Simply marking a crossing does not make it safer. When a street is unsafe to cross, it is typically due to a combination of factors including vehicle speed and volume, crossing distance, sight distance, visibility, and driver expectation. Making the crossing safer may require other improvements and enhancements to mitigate these conditions, as illustrated in the preceding passage on crossing types. Contrary to popular belief, there is little evidence to support the notion that marked crosswalks give pedestrians a "false sense of security" when crossing.

Other crossing types

This plan includes some specific crossing types that deserve additional guidance:



- **Bikeway crossings**. There are a variety of crossing types that are designed specifically to accommodate bicyclists, including bike hawks, toucans, and separated intersections and roundabouts. Bikeway-specific crossings are planned in conjunction with the bikeways plan, but in some cases overlap with the planned at-grade and grade-separated crossings described in this section.

- **FUTS crossings**. There are a number of locations along the FUTS system where trails cross major streets, including many midblock crossings. In some cases, midblock locations are preferred to intersections, because there are fewer lanes to cross and the crossing is simpler. All midblock FUTS locations should include formal crossing facilities to avoid any ambiguity with state law. The design of FUTS crossings should support both pedestrian and bicycle use.

Grade-separated crossings

Grade-separated crossings refer to structures that convey pedestrians and bicyclists over or under interstates, railroad tracks, and major roads. Grade-separated structures include dedicated bridges and tunnels for the exclusive use of pedestrians and bicyclists, as well as street underpass and overpass structures that include facilities for walking and biking.

Grade-separated crossings can add significant value to the walking and biking environment by providing access across features that otherwise create barriers in walking and biking networks. Bridge and tunnel structures are also very expensive to build, so locations must be carefully planned to have the most impact and serve the greatest need.

Good design is also key to the success of grade-separated structures. A few basic guidelines should be considered as part of planning for any grade-separated crossing:

- **At-grade crossings**. Where a bridge or tunnel is built across a busy street, it should not be made a substitute for at-grade pedestrian and bicycle crossings. Bridges and tunnels work best for linear facilities, like FUTS trails. They do not work well as an alternative to an at-grade

crossing, because the additional distance needed to climb or descend to the crossing will discourage their use.

- **Topography**. Grade-separated crossings work best when existing topography allows for a structure under or over without the need for long or steep ramps to gain or lose elevation.



- **Design**. Grade-separated crossings that are perceived as uncomfortable or unsafe will not be used. Structures should be open, inviting, and well-lit. Approaches to a tunnel should be long and straight and allow users to see into and through the tunnel well in advance.

- **Opportunities for placemaking**. Amenities such as plazas, landscaping, pedestrian lighting, seating areas, interpretive displays, and public art make structures more attractive and inviting to users, and help establish these facilities as neighborhood and community assets.

- **Activity and safety**. Tunnels that are well-used provide a greater sense of security and safety for all users. When a tunnel is used frequently, it is regularly monitored by other users, and those who seek to engage in nefarious behavior will be discouraged.

Maintenance and operations

Maintenance

Maintaining walking and biking facilities is just as important as building them. Cracked sidewalks, faded bike lane markings, and eroded FUTS trails discourage their use and can create safety hazards. However, resources needed for maintenance compete with many other municipal needs, and it can be challenging to make an effective case to decision makers when asking for additional maintenance resources.

The first line of defense is to build facilities that require less ongoing maintenance by design. Building FUTS trails with good drainage features, for example, reduces the need to repair future erosion problems. The second approach is to collect good information about maintenance quantities, practices, standards, and costs to make maintenance operations as efficient as possible

and to effectively make the case for the need.

Ultimately, it may come down to policy choices about resource allocation and resolving to dedicate adequate funds to take care of walking and biking facilities. In some cases, this may mean finding a balance in maintenance resources between vehicular facilities and pedestrian and bicycle facilities.

Snow removal

Although Flagstaff sometimes gets heavy snowfalls, a good part of the winter is clear, dry, reasonably warm, and viable for bicycling and walking. However, when snow is left on or plowed into bike lanes and sidewalks, it can form an ice pack that tends to remain long after the adjoining street is clear and dry. This discourages walking and biking, can create dangerous conditions, and hampers mobility for a portion of the population.

The use of cinders on streets during snow events makes it challenging to keep bike lanes clear through the winter and spring. Cinders also accumulate on sidewalks throughout the winter, and often remain into spring and summer months, making sidewalks difficult to use.



Clearing sidewalks of snow and cinders is the responsibility of the adjoining parcel owner, per Section 8-03-001-0004 of Flagstaff City Code. This means that the challenge for keeping public sidewalks clear is more of a compliance problem and less of an operations issue for the City.

Like maintenance, good design can help minimize issues with snow and cinders. For example, including a parkway between the street and the sidewalk provides a place for storage of snow and accumulation of cinders; as a result, they are less likely to end up on the sidewalk.

Beyond design, two practices will help improve snow and cinder removal. The first is to establish hierarchies and priorities within walking and biking networks, so the most important routes and facilities can be cleared first. The second is to provide good information about snow and cinder removal policies and practices so the public knows what to expect and can easily find up-to-date and accurate information.

Snow and cinder removal can be another policy question related to resource allocation. The City may consider a different allocation of resources for snow clearing between vehicular facilities and pedestrian/bicycle infrastructure, including practices that support walking and biking while still ensuring the safety of drivers, bikers, and pedestrians.

Closures and detours

Closure of sidewalks, bike lanes, and FUTS facilities due to construction, repairs, utility work, and other activities is inevitable. However, how closures are managed makes a significant and visible difference in how well pedestrians and bicyclists are accommodated overall. The City needs formal policies and practices for closure of walking and biking facilities, based on the following guidelines:

- **Keep facilities open**. Walking and biking facilities should be closed only when necessary; the first effort should be finding a way to keep the facility open. Charging developers and contractors a fee to close facilities would serve as an incentive to keep them open.
- **Prioritize pedestrians and bicyclists**. The needs of pedestrians and bicyclists should always be considered above the convenience of construction activities.
- **Limit scope and duration**. Close only what is necessary; for example, it may not be necessary to close a long section of sidewalk to replace a single panel. Similarly, limit the duration of closures to only the time needed for work that affects the facility; pedestrian and bike routes should be reopened as soon as possible.
- **Provide detours**. Provide alternate routes and detours to maintain connectivity when pedestrian and bicycle facilities are closed.
- **Prioritize primary facilities**. Use context and the hierarchy of facilities to guide closure policies. More of an effort should be made to keep priority facilities and important routes open, or to provide good detours when they must be closed.



- **Share information**. Keep the public informed before and during closures using on-site signage, the City's website, social media, and press releases to disseminate information. Reliable information helps engender public trust and goodwill.

8 Infrastructure recommendations

This chapter includes recommendations and a plan for new and enhanced infrastructure for walking and biking. The term "infrastructure" refers to physical facilities for walking and biking, and includes sidewalks, bikeways, urban trails, and crossings. Facilities that are functional, convenient, and comfortable for walking and biking are essential to supporting active transportation.

Infrastructure purpose and intent

Purpose

This section of the ATMP establishes a plan for pedestrian and bicycle infrastructure to guide for active transportation improvements in both the short term and long term. More specifically, the infrastructure section will:

- Inventory existing facilities and create a plan for missing and needed additional infrastructure.
- Develop a consistent and transparent process for prioritizing planned improvements to make sure resources are used on improvements that are most needed and will provide the most benefit.
- Support the capital planning process by identifying priority projects that can be built over the next 20 years with available funding, principally the pedestrian and bicycle portion of the transportation sales tax and First Mile Last Mile grant funding. This list can be further refined to include projects in the five-year capital planning process.
- Plan for pedestrian and bicycle infrastructure that will be built by other projects, in particular private development and public roadway and capital projects.
- Position the City to take advantage of opportunities for funding and implementation when they come up, including grants.

Infrastructure intent

Recommendations for walking and biking infrastructure included in this section are intended to create robust and comprehensive networks for walking and biking:

- Complete gaps and missing facilities to form complete networks for walking and biking, and integrate across networks to create seamless connectivity.
- Address some of the infrastructure challenges for walking and biking identified in Chapter 2 of this document.
- Plan for additional enhanced and separated crossings at key locations to limit the extent to

which major streets, the interstates, and the railroad create barriers for walking and biking connectivity.

- Enhance the network of FUTS trails by adding important trail links and connections, improving and enhancing existing trails, and planning for seamless connectivity to regional trails and open space.
- Establish a citywide network of low-stress bikeways that features higher-level separated facilities and comprehensive wayfinding.
- Provide better pedestrian and bicycle access to and from Flagstaff's neighborhoods, especially those that are isolated or lack basic walking and biking accommodation.
- Facilitate better access to transit by addressing pedestrian and bicycle facilities around bus stops and routes.
- Allow seamless walking and biking connectivity between the NAU campus and the community.

Prioritization process

Process

To help organize, evaluate, and prioritize pedestrian and bicycle projects in a systematic way, this four-step process was used to plan and prioritize basic infrastructure, including sidewalks, bikeways, enhanced crossings, bridges and tunnels, and FUTS trails.

Priorities should be reviewed and updated to reflect changes in circumstances, and to make sure the evaluation is current and responsive to the needs and desires of the community.



- **Inventory**. The first step involves a detailed inventory of existing facilities, as well as a detailed plan for facilities that are missing or needed.
- **Implementation**. This step categorizes new infrastructure according to how it will be built: some of the missing facilities will be

built as part of other private development or public roadway projects, while remaining facilities must be funded and constructed by the City as stand-alone capital projects.

- **Prioritization**. A formal prioritization process, described in more detail below, helps determine which walking and biking facilities are most needed and will provide the most benefit.

- **Programming**. For the final step, concept-level cost estimates are prepared for all planned facilities, and priority projects are programmed in the City's five-year capital plan. This final step is beyond the scope of this master plan, but would be done as part of the capital planning and programming process.

Priority factors

Sidewalks, crossings, and FUTS trails

Four prioritization factors are used to determine a priority score for each planned facility. Of the four factors, three are common and used for all types of facilities:

- **Generators and attractors**. Include places and land uses that encourage and support walking and bicycling trips.

- **Social factors**. Describe circumstances or conditions that make people more likely to walk or bike and include traditionally underserved populations who would benefit from enhanced mobility.

- **Need and functionality**. This represents an aggregate of several sources of information, including knowledge and experience, anecdotal evidence, results of previous surveys, safety and crash data, conversations with community members, and discussions at Pedestrian and Bicycle Advisory Committee meetings.

A fourth prioritization factor is specific to each type of facility:

- **Sidewalks | Pedestrian comfort index**. A quantitative measure of how comfortable a street is for pedestrians, based on a variety of street characteristics.

- **Crossings | Crossing comfort**. A composite score that is a measure of how comfortable or difficult it is to cross the street.

Generators and attractors

- Schools
- Parks
- Transit stops
- Residential neighborhoods
- Commercial areas
- Employment centers
- Institutions
- NAU and CCC campus

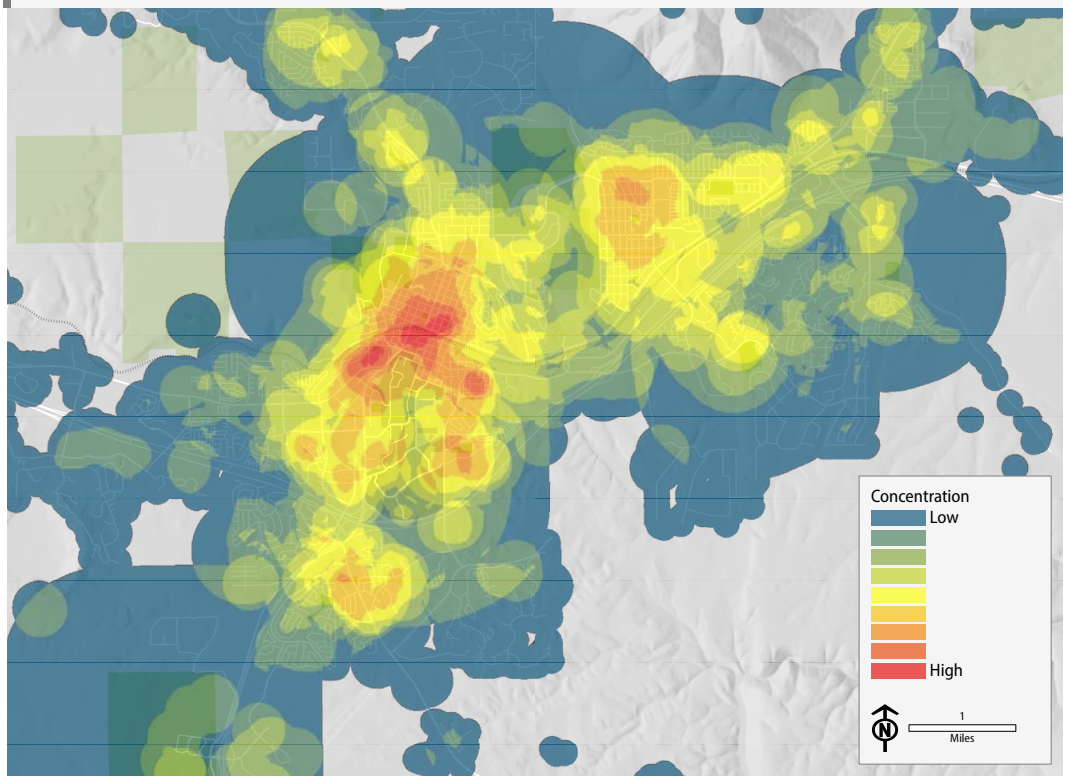
Social factors

- Elderly populations aged 65 and over
- Children under 18
- Persons with disabilities
- People of color
- Household poverty status
- Households without access to a vehicle
- Affordable and assisted housing locations
- Human service facilities

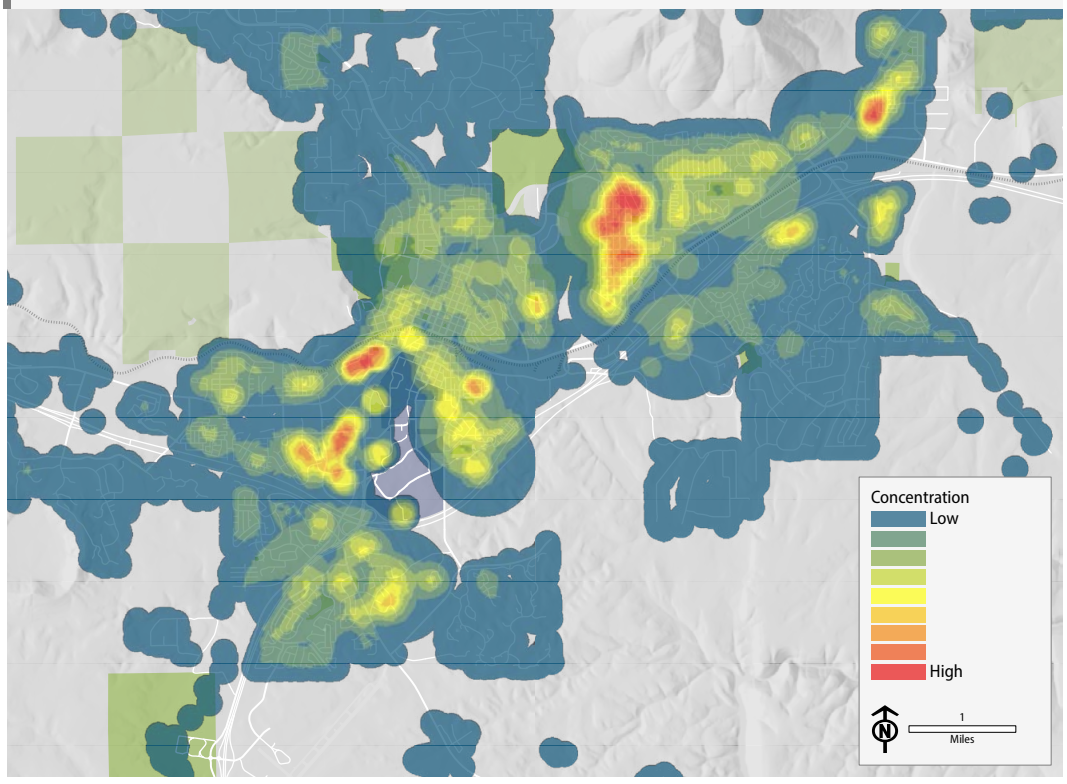
Need and functionality

- Serves an important function
- Identified as a community need
- Expected level of use
- Addresses safety issues
- Community support
- Difficulty or constructability

Generators and attractors



Social factors



- **FUTS trails | Completion and connectivity**. Qualitative assessment of the extent to which the planned FUTS will connect the system, complete gaps, and serve new neighborhoods or areas.

The four factors for each facility type are combined to generate a priority score of 0 to 100, where a higher score indicates a higher priority. Projects are separated into four priority levels based on the score.

Bikeways

Prioritization of bikeway improvements considers several factors:

- **Bikeways hierarchy**. Primary bikeways are given a higher priority than secondary and tertiary bikeways.
- **Completion**. Projects that help connect or complete missing segments in existing bikeways are favored.
- **Reliance on other projects**. Priorities may be lowered for projects that are reliant on other roadway, capital, or development projects for which timing is uncertain or several years in the future.
- **Function and use**. Higher priorities are assigned to bikeways that serve an important, identifiable function in the transportation network and are anticipated to be well-used.
- **Need**. Considers the character of the street and the extent to which the facility will make the street more comfortable for bicyclists.



Priorities and timeframes

The ATMP identifies a long list of potential pedestrian and bicycle projects and establishes priorities between them using a formal prioritization process. The capital programming process, which follows but is not part of the ATMP, assigns an approximate timeframe to projects – within five years, within 20 years, or beyond 20 years – based on anticipated funding for pedestrian and bicycle projects from the transportation sales tax and First Mile Last Mile grant. The capital programming process is fiscally constrained, meaning that the total cost of projects included in the five and 20-year

timeframe does not exceed available funding. The prioritization process is not fiscally bounded.

It is important to note that anticipated funding over the next 20 years will cover most, but not all the projects identified as first priorities. Projects at the second, third, and fourth priority level are generally unfunded and therefore fall outside the 20-year timeframe of the transportation sales tax.

Additionally, both project costs and anticipated funding are best estimates at this time. Construction costs, sales tax revenues, and project priorities will change over the course of 20 years and affect which projects are built in the next 20 years and which are not.

Infrastructure recommendations

This section provides a summary of the ATMP's recommendations for pedestrian and bicycle infrastructure. Maps to illustrate these recommendations are included at the end of this section, beginning on page 79. An online map of planned walking and biking facilities can be accessed at this link: https://flagstaff.maps.arcgis.com/apps/instant/sidebar/index.html?appid=a53a041956f5473490a93b48d32f8f80

Sidewalks

Plan for sidewalks

Existing sidewalks along all public streets, and missing sidewalks along major streets, are depicted on Map 8.01 on page 79 at the end of this section. Map 8.02 on page 80 shows missing sidewalks by priority.

Existing sidewalks. At present, there are a total of 302.0 miles of existing sidewalks along all public streets in Flagstaff. This number includes 143.5 miles of existing sidewalks along major streets, which are defined as having a functional class designation of arterial, collector, or commercial local street.

Missing/planned sidewalks. The sidewalk inventory also identifies a total of 58.3 miles of missing sidewalks along major public streets. Missing sidewalks along local residential streets have not been inventoried and are not included in this total.

Implementation. Of the missing sidewalk miles, it is anticipated that planned roadway projects will complete 10.5 miles, and future private development will account for another 8.4 miles. A total of 35.7 miles of missing sidewalks must be funded and built as stand-alone sidewalk projects.

Sidewalks | plan summary	
Inventory	
Existing sidewalk miles	302.0
Missing sidewalk miles	58.3
Implementation	
Private development	8.4
Public roadways	10.5
Other sources	3.8
Sidewalk projects	35.7
Total miles	58.3
Priorities	
First priority	7.9
Second priority	6.1
Third priority	4.9
Fourth priority	16.8
Total miles	35.7
Estimated cost	
First priority	$4.96 million
Total	$21.80 million

Priorities. A total of 7.9 miles of missing sidewalk have been identified as first priority projects, and another 6.1 miles are considered second priority.

Estimated cost. The cost to complete all missing sidewalks is estimated at $21.80 million; this includes $4.96 million for sidewalks that are considered first priority.

Sidewalk planning considerations

Neighborhood sidewalks. In several locations, missing sidewalks have been prioritized along the main collector streets in neighborhoods that do not have sidewalks. Completing these sidewalks will provide a way for residents to walk to or from their neighborhood, even if local streets within the neighborhood do not have sidewalks.

Infill sidewalks. The inventory identifies numerous short missing sidewalk segments, typically less than 200 feet in length, that are categorized as infill projects. Infill projects are generally less complicated to engineer and build, and can be grouped together for project delivery and construction. As a result, infill segments are planned for completion in the first five years.

Other sidewalk recommendations

Upgrade, replace or repair sidewalks that are deficient or in disrepair. The sidewalk inventory documents only whether a sidewalk is present along a street or not; it does not indicate the quality, adequacy, or condition of the sidewalk. It is recommended that additional information be collected to address enhancements, replacements and repairs, including an inventory of sidewalk condition and needed improvements, a summary of potential funding sources, and a listing of other opportunities as part of public roadway and private development projects.

Add curb ramps where missing. Information about curb ramps was not collected as part of this plan, but a subsequent effort could include an inventory of missing and existing curb ramps, an assessment of condition, estimated costs, potential funding sources, and opportunities to complete as part of other projects. When the City collects information about curb ramps, or sidewalk condition as described above, it is important to dedicate funding and resources as part of the effort so the City can begin to address the deficiencies identified in the inventory.

At-grade crossings | plan summary	
Inventory	
Existing crossings	21
Planned crossings	70
Implementation	
Private development	1
Public roadways	7
Other sources	0
Crossing projects	62
Total crossings	70
Priorities	
First priority	13
Second priority	16
Third priority	15
Fourth priority	18
Total crossings	62
Estimated cost	
First priority	$ 4.72 million
Total	$ 18.72 million

At-grade crossings

Plan for enhanced at-grade crossings

Existing and planned locations for enhanced at-grade crossings are included on Map 8.03 on page 81. Map 8.04 shows planned enhanced crossings by priority.

Existing crossings. There are 21 existing enhanced at-grade crossings in Flagstaff, including two pedestrian hybrid beacons, nine rapid flashing beacons, and 10 crossings with enhanced features.

Planned crossings. A total of 70 new locations have been identified for new enhanced crossings. This number includes 32 potential beacon crossings, 20 enhanced crossings, and 18 median crossings (crossing types are described in more detail above in Chapter 7).

Implementation. Of the 70 potential new crossing locations, most (62) are planned as stand-alone crossing projects. Seven will be built in conjunction with planned roadway projects, and one crossing is anticipated as part of future private development.

Priorities. Thirteen new at-grade crossings have been designated as first-priority locations, and another 16 locations are considered second priorities.

Estimated cost. The total estimated cost for all planned enhanced crossings is $18.72 million. First-priority crossings are estimated to cost $4.72 million.

Crossing planning considerations

Planned locations. Locations for new crossings were identified based on several considerations:

- Locations along long stretches of major streets where there are no formal crossings.
- Places where there are existing needs for a crossing based on observation, anecdotal information, crash history, crossing difficulties, public surveys, and community feedback.
- Locations where there are important pedestrian generators and attractors on one or both sides of the street, including transit stops.
- Along three-lane streets that have a continuous center turn lane and provide an opportunity for median crossings.

Locations identified in this plan should be considered preliminary and subject to further review to determine feasibility and optimal locations.

Other at-grade crossing recommendations

Consider locations where basic crossing facilities are needed. Review minor collector and commercial local corridors for locations where basic crossing facilities like curb ramps and crosswalk markings are missing or would be beneficial. At locations where pedestrian activity is high, for example along commercial corridors, additional minor crossing enhancements can be considered. Map 8.05 on page 83 shows locations for basic crossings.

Enhance Downtown/Southside crossings. Consider additional crossing improvements in the Downtown and Southside areas, including midblock crossings that correspond to public alleys and curb swellings, crosswalk markings at additional intersections, and other minor enhancements like in-street pedestrian warning signs.

Review locations where crossings are prohibited. There are 15 signalized intersections in Flagstaff where pedestrian crossings are expressly prohibited on one or more legs. These locations should be reviewed for opportunities to add facilities and remove prohibitions. Intersections with prohibited crossings are depicted on Map 8.06.

Grade-separated crossings

Plan for grade-separated crossings

Map 8.07 on page 85 shows existing and planned grade-separated crossings, and Map 8.08 depicts separated crossings by priority.

Existing grade-separations. Flagstaff has a total of 23 existing grade-separated structures, including two bridges and nine tunnels for the exclusive use of pedestrians and bicyclists. The other twelve crossings are roadway overpasses and underpasses that include facilities for walking and biking.

Planned grade-separations. The plan shows 47 potential new locations for grade-separated crossings, including seven bridges and 26 tunnels. A total of 14 roadway overpasses and underpasses are on the list, of which five will be new structures, and nine are existing structures that need completion of walking and biking facilities.

Implementation. There are opportunities to build 21 of the planned grade-separations with future roadway projects. Twenty-one other crossings must be funded and built as stand-alone projects.

Priorities. Four planned grade-separated crossings are identified as first priority, and three are considered second priority.

Estimated cost. The total cost for all planned grade-separated crossings is $65 million. First priority projects add up to $12 million.

Grade-separated crossings | plan summary	
Inventory	
Existing crossings	23
Planned crossings	47
Implementation	
Private development	2
Public roadways	21
Other sources	3
Crossing projects	21
Total crossings	47
Priorities	
First priority	4
Second priority	3
Third priority	8
Fourth priority	6
Total crossings	21
Estimated cost	
First priority	$ 12.00 million
Total	$ 65.00 million

Grade-separation planning considerations

Planned locations. Candidate locations for new grade-separated crossings are based on several considerations:

- Locations where planned FUTS and major bikeways cross interstates, BNSF tracks, and major streets.
- Places along the interstates or railroad where there is evidence that people are already crossing.
- At points where there are long distances between crossings along the interstate and BNSF tracks.

- At existing street underpasses and overpasses that lack accommodation for pedestrians and bicyclists.

Roadway projects. Pedestrian and bicycle tunnels under a street are less expensive to build as part of new roadway construction compared to adding a tunnel as a retrofit under an existing street. Pedestrian and bicycle tunnels should be included with new road construction in future capital projects or private development where new grade-separated crossings under planned roads have been identified.

Bikeways

Plan for bikeways

The planned bikeway network, depicted by hierarchy, is included on Map 8.09 on page 87. Map 8.10 shows the long-term plan for bikeways by facility.

Existing bikeways. There are 87.5 miles of existing bikeways in Flagstaff, including 56.4 miles of streets with bike lanes and 15.7 miles of existing FUTS trails that are used as bikeways.

Planned bikeways. The plan for bikeways envisions a total network of 168.2 miles at full buildout. Planned bikeways include 81.9 miles of new bikeways, as well as enhancements and upgrades to 72.0 miles of existing bikeways.

Implementation. About three-quarters (113.3 miles) of new and upgraded bikeways will be funded and implemented as bikeway projects. A total of 18.3 miles will be built with roadway projects, and 14.9 miles are anticipated with future private development.

Priorities. First priority bikeways comprise 61.1 miles of the total network, while second priority bikeways total 25.7 miles. The plan designates 21 primary bikeway routes totaling 54.3 miles.

Estimated cost. The total estimated cost to complete the bikeways network is $62.93 million. First priority bikeways are estimated at $17.3 million.

Bikeways | plan summary	
Inventory	
Existing bikeway miles	87.5
Planned bikeway miles	153.9
Implementation	
Private development	14.9
Public roadways	18.3
Other sources	7.4
Bikeway projects	113.3
Total miles	153.9
Priorities	
First priority	61.1
Second priority	25.7
Third priority	15.7
Fourth priority	10.8
Total miles	113.3
Estimated cost	
First priority	$17.30 million
Total	$62.93 million

Bikeways planning considerations

Implementation. The intent of the bikeways plan is to front-load implementation to create a functional and visible bikeway system within five years:

- Complete and connect primary bikeways to the greatest extent possible, including using interim facilities.
- Build a few high-visibility and impactful bicycle

enhancements that include higher level facilities such as separated bike lanes and separated intersections.

- Introduce other types of advanced facilities to better accommodate bicyclists, including bike boulevards, two-stage left turns, and cross bike markings.
- Implement basic elements of important second and third level bikeways, including bike lanes and bike routes, to help flesh out a more robust overall network.
- Pull the network together through a comprehensive system of signage, branding, identification, mapping, and information.

FUTS trails

Plan for FUTS trails

Existing and planned FUTS trails are shown on Map 8.11 on page 89 at the end of this section. Map 8.12 shows planned FUTS trails by priorities.

Existing FUTS. Flagstaff has 59.0 miles of existing FUTS trails. About half of the existing miles (29.2) are paved in either concrete or asphalt, and the other half (29.8 miles) is aggregate surfaced.

Planned FUTS. The plan for FUTS shows an additional 76.3 miles of future FUTS trails, for an ultimate system of 135 miles.

Implementation. Of the planned trails, a total of 38.6 miles must be funded and built as standalone projects. Another 26.2 miles are anticipated as part of private development, and 7.0 miles will be built with roadway projects.

Priorities. There are 5.0 miles of planned trails that are considered first priorities, and 4.7 miles that are second priority.

Estimated cost. The total cost to complete all planned FUTS is estimated at $28.74 million, while first priority FUTS will cost $4.29 million to construct.

FUTS trails | plan summary	
Inventory	
Existing FUTS miles	59.0
Planned FUTS miles	76.3
Implementation	
Private development	26.2
Public roadways	7.0
Other sources	4.5
FUTS projects	38.6
Total miles	76.3
Priorities	
First priority	5.0
Second priority	4.7
Third priority	15.3
Fourth priority	13.5
Total miles	38.6
Estimated cost	
First priority	$ 4.29 million
Total	$ 28.74 million

FUTS planning considerations

Planning history. The first plan for FUTS trails dates from 1988 as the final report from an Ad Hoc Urban Trails Committee convened by the City. That report recommends an initial system of 3.2 miles of trails. Since then, more expansive plans for the FUTS network have been mapped in Flagstaff's succession of general and regional plans. The current FUTS master plan is contained in Map 26 of the Flagstaff Regional Plan 2030, which was adopted in 2014.

FUTS as bikeways. With the adoption of a comprehensive plan for bikeways as described in the preceding section, it is no longer necessary to use FUTS trails along major streets as an alternative to on-street bike facilities for those who are not comfortable adjacent to traffic. This allows the FUTS network to function as a walking and biking network that is complementary to but separate from on-street pedestrian and bicycle facilities. As a result, the role of FUTS as a sidepath along busy streets is deemphasized in this plan.

Other trail facilities. The plan for FUTS also includes a variety of other trail types and ancillary facilities – which are described in more detail in the section below – to complement the FUTS network and create an integrated system of trails.

Other FUTS recommendations

Make improvements and enhancements to existing trails. Potential improvements, enhancements, and repairs have been identified at more than 200 locations along existing FUTS. Some of these will help address existing maintenance concerns, while others improve the functionality of the system and enhance user experience.

Plan to systematically replace asphalt trails. The FUTS includes a total of 8.3 miles of asphalt trails. For a variety of reasons, asphalt has not been proven to be a long-lasting material for trails, and it is no longer used when new trails are built. For existing asphalt trails, the long-term solution is to resurface them with concrete. However, this will be expensive and should be planned and funded over time. Priorities for a replacement program can be determined based on a combination of the condition and function of existing asphalt trails.

Other trail facilities

Neighborhood trails

This category includes a variety of short pedestrian and bicycle connections that provide shortcuts through neighborhoods, connections between local destinations, and access to the FUTS system. Neighborhood trails take several different forms, including sidewalks, FUTS trails, and singletrack trails. Most are privately managed, for example, by neighborhoods HOAs, although some are the responsibility of the City.



An inventory has identified 3.8 miles of existing neighborhood trails in a number of locations across town. Neighborhood trails are prevalent in the Ponderosa Trails neighborhood as access trails to the FUTS, and in the

Boulder Pointe neighborhood as non-motorized connections between streets. Four potential new neighborhood trails are identified in this plan. Existing and planned neighborhood trails are shown on Map 8.13 on page 91.

Singletrack access trails

These trails allow connectivity between the FUTS system and recreational singletrack in the surrounding forest. In a number of locations, singletrack access trails are shown as an interim facility along the alignment of a planned FUTS trail. A singletrack trail is significantly less expensive and less complicated to build than a FUTS-standard trail; as a result, they can be in place in the short term rather than waiting several years or more for a FUTS to be completed. Because their primary function is to provide access to recreational singletrack trails, a singletrack trail is usually sufficient and, in some cases, may be preferred by users to a FUTS trail.

Planned alignments for singletrack access trails are included on Map 8.13 on page 91. Flagstaff has eight existing singletrack access trails totaling 1.1 miles. Most of the existing trails are located along the interface between Flagstaff and the south flank of Mt. Elden in the northeast part of the city. The plan calls for 31 new singletrack access trails totaling 20.9 miles in length.

Forest access points

Forest access describes locations around the perimeter of the city where access is gained to regional open space and the national forest, typically via a trail connection. These locations are important because they connect the community to the vast tracts of forest and natural areas that surround the city.

There are hundreds of locations around Flagstaff that are currently used for forest access; however, most are informal and lack formal improvements or permanent rights-of-access. Without a permanent right of access, access points are not secure and may be closed, blocked, or removed without notice. Access may also be lost when private parcels are developed. Planning for access locations will help protect and enhance access to regional open space.



Because forest access locations often involve multiple jurisdictions, for example, a FUTS trail that transitions to a singletrack trail in the national forest, it is important for the City to work with the Forest Service and other land managing agencies to coordinate locations and facilities.

Map 8.14 on page 92 shows existing and planned forest access points. Forty-two existing access points have formal trail improvements and permanent access rights. The map also shows 40 planned locations for forest access points. Of these, 27 locations are already used informally, but lack improvements and access rights. The remaining 13 represent new locations for access.

Trailheads and trail hubs

Trailheads are defined as major points of access to the FUTS system where vehicle parking is available. Basic facilities for trailheads include signing, maps and information, and accessible parking. Advanced facilities might include restrooms, bike parking, picnic tables, interpretive information, paved parking, and other amenities.

Trail hubs are trailhead locations where there is significant connectivity between the FUTS system and surrounding recreational singletrack system. At these locations there is an opportunity to highlight the connectivity between the two trail systems and create a seamless experience.

In general, providing parking for FUTS trails is a lower priority than enhancing pedestrian and bicycle access to FUTS from all parts of the community. However, there are a few circumstances for which vehicular parking is beneficial, such as to better serve visitors to the community and people with mobility limitations.

Map 8.15 on page 93 shows existing and planned trailheads and trail hubs. There are 17 existing trailhead locations that give access to FUTS and other trails. Only a few of these are dedicated solely for trail access; the remainder are parking lots that primarily serve other park or recreation facilities, but can provide access to trails as a secondary function. Opportunities for enhancements or expansion have been identified at 13 of the 17 existing trailheads. New trailheads are planned at eight locations. Eleven new or existing trailheads are planned as trail hubs.

Outlying connections

This category addresses non-motorized commuter routes to county neighborhoods outside Flagstaff, including Bellemont, Fort Valley, Timberline-Fernwood, Doney Park, Cosnino, Mountainaire, and Kachina Village. For most of these neighborhoods, pedestrian and bicycle access is limited to major highways and interstates which often lack adequate pedestrian and bicycle accommodation and are generally not comfortable for walking and biking. Past community surveys, however, have indicated a consistent desire for pedestrian and bicycle connectivity to these neighborhoods.

While FUTS trails would be ideal as a facility, they are expensive and complicated to build, operate, and maintain. Singletrack trails are a less expensive option, but they are generally not conducive to commuting. As an alternative, it may be possible to designate a series of forest roads to form a continuous route. Establishing routes using forest roads would require signage and wayfinding, but potentially few other physical improvements.

Map 8.16 on page 94 shows a variety of potential alignments for non-motorized connections to outlying communities using existing forest roads. These routes are conceptual only and would require further review and agency coordination before they are finalized. However, available information suggests that these routes are already used to some degree for non-motorized travel.

The plan also illustrates alignments for two multiuse pathways along busy roads: a paved path along Highway 89 to Timberline-Fernwood, and another along Highway 180 to Fort Valley. Both pathways are previously addressed in Coconino County planning documents.

Because outlying connections serve neighborhoods outside of City limits, funding and implementation is beyond the City's scope and would require regional coordination among several agencies.

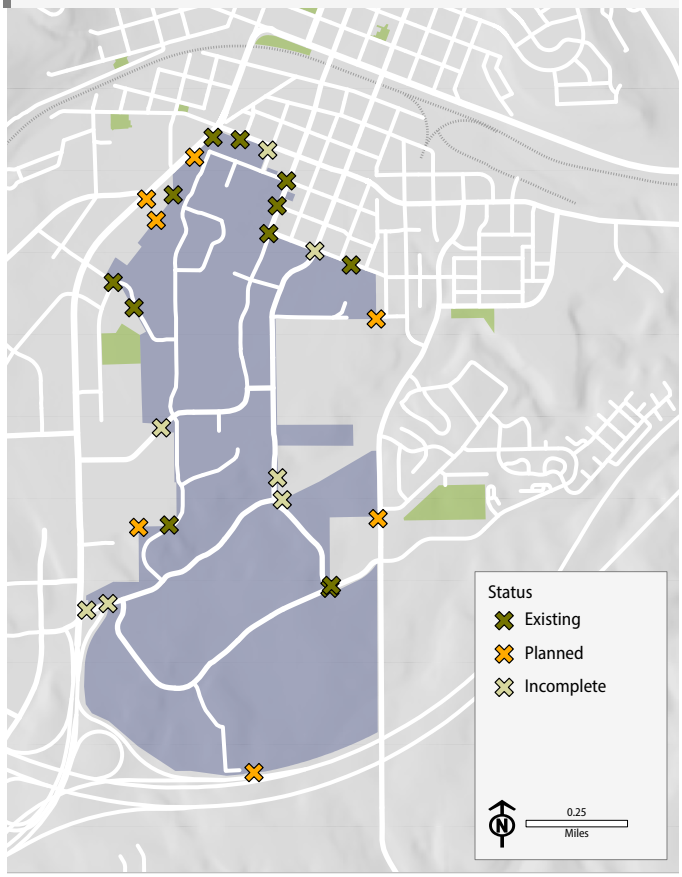
NAU access points

This section considers locations and quality of non-motorized points of access for walking and biking around the perimeter of the NAU campus. Pedestrian and bicycle access onto the campus takes several forms, including sidewalks, FUTS trails, and streets that accommodate walking and biking.

The map on this page shows the locations of existing and planned points of access to NAU. A total of 26 are shown on the map, including 19 existing and seven planned new locations. Of the 19 existing points of access, seven are planned for additional improvements to better accommodate walking and biking. Of the seven planned locations, six are planned FUTS trails, and one is a planned street (the fourth leg of the intersection of Milton Rd and Route 66).

All of the planned new and improved NAU access points are covered in this section in the recommendations for sidewalks, FUTS trails, and bikeways.

NAU access points



Complete street conversions

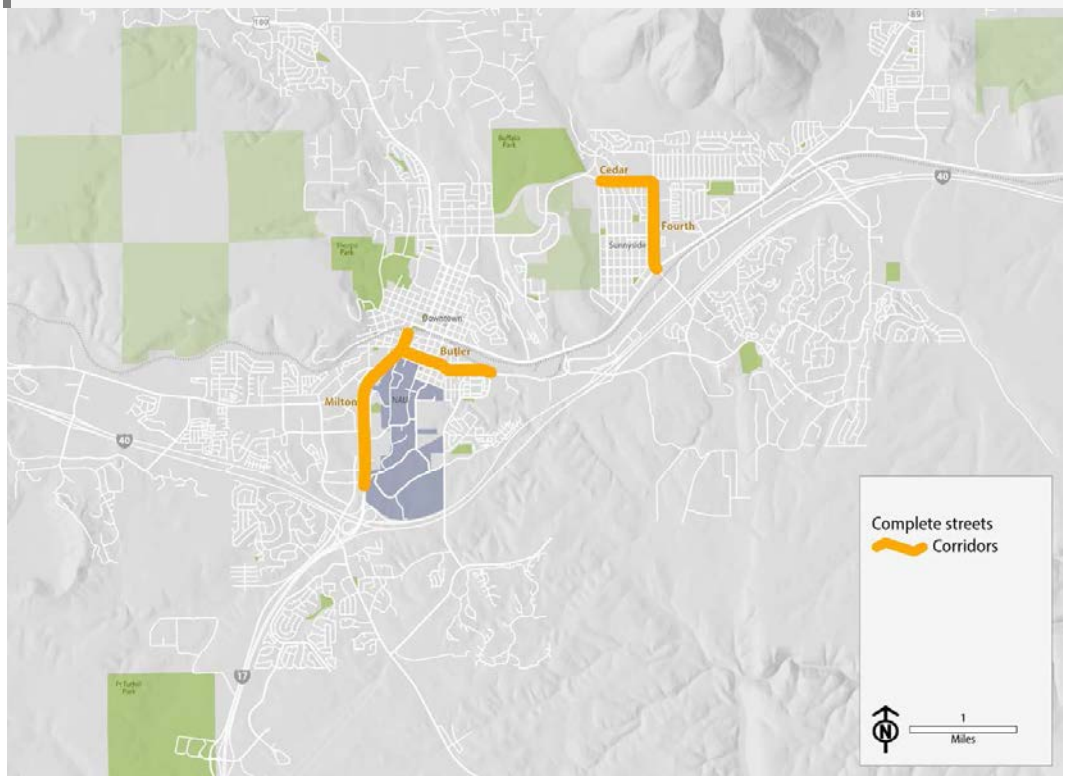
The map on the following page depicts four street corridors that can be considered for complete street conversion projects. There is typically a combination of missing infrastructure along the corridors, such as sidewalks, enhanced crossings, bikeways, and FUTS trails. Additionally, the street would benefit from other pedestrian and bicycle amenities, including median islands, parkway strips, landscaping and streetscaping, and accessibility improvements.

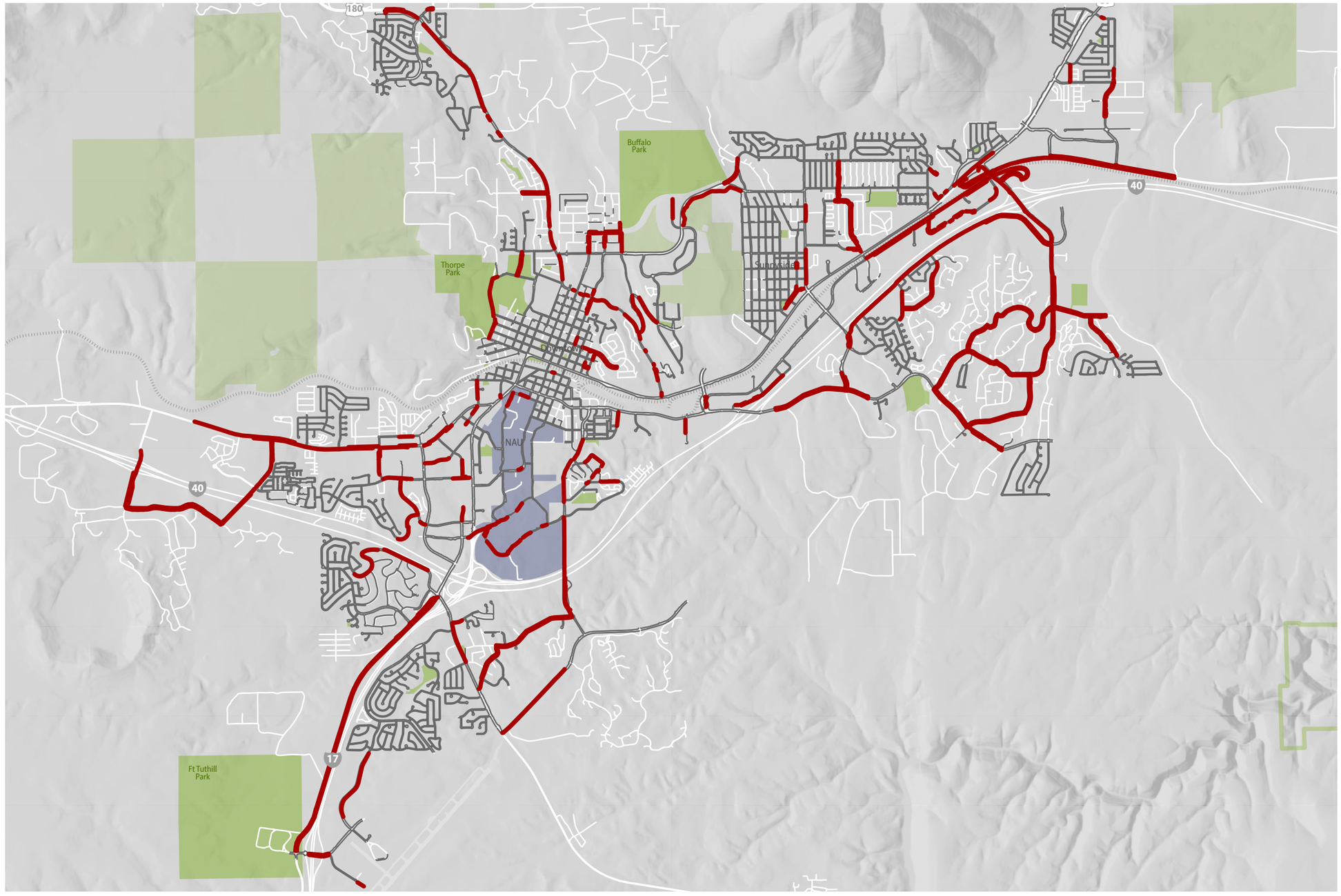
These corridors are highlighted based on several common characteristics, including significant walking and biking activity, above-average incidence of pedestrian and bicycle crashes, and

proximity to traditionally disadvantaged neighborhoods. For all of these streets, the speed and volume of traffic make it uncomfortable to walk or bike along and difficult to cross. A conversion to a complete street would alleviate the barrier effect, improve safety for all users, enhance the corridor for walking and biking, and create an amenity for the neighborhood.

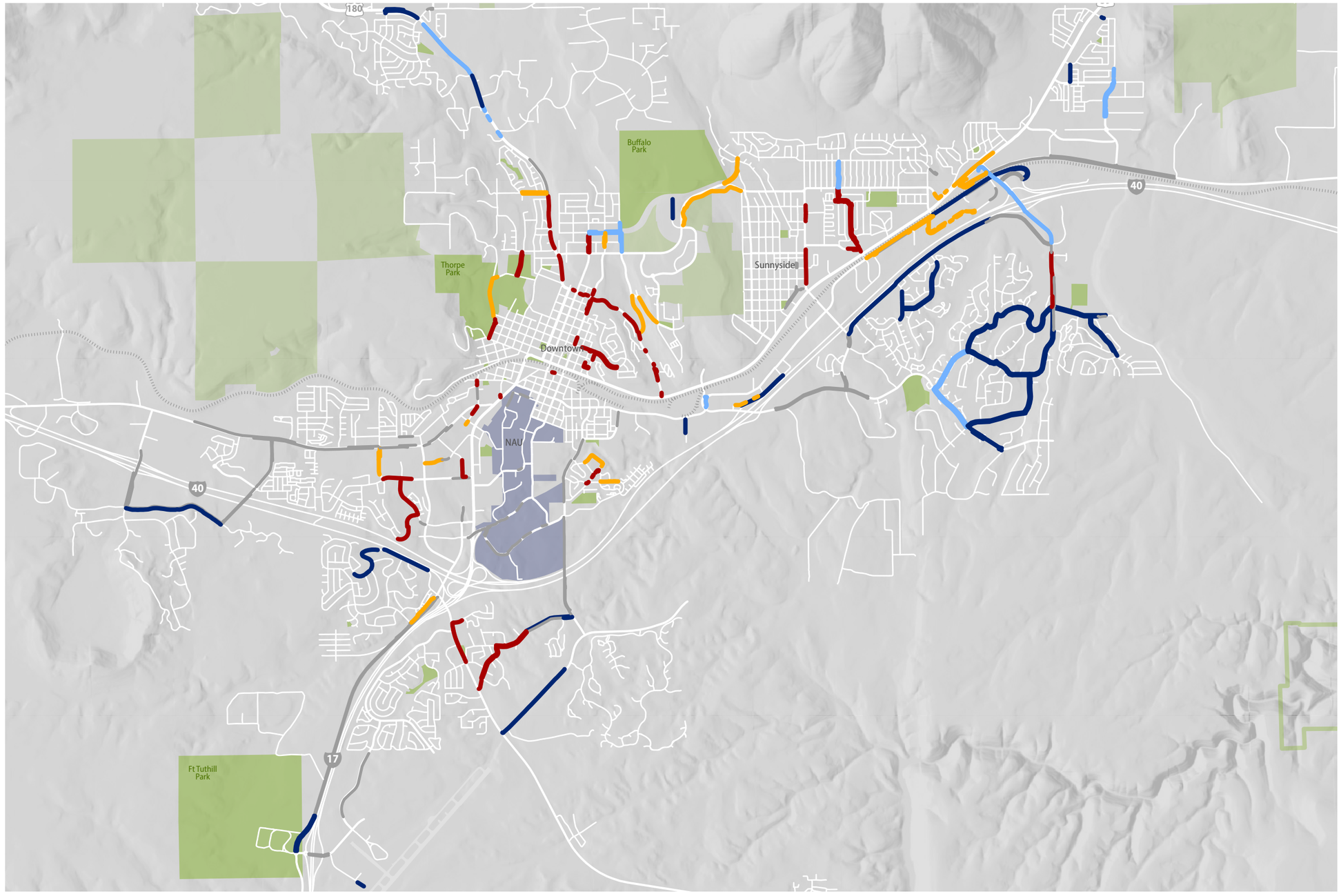
- **Butler Avenue** - Milton Rd to Sawmill Rd
- **Cedar Avenue** - West St to Fourth St.
- **Fourth Street** - Route 66 to Cedar Ave
- **Milton Road** - Forest Meadows St to Phoenix Ave

Complete street conversions





Map 8.01
Sidewalks
Existing and missing

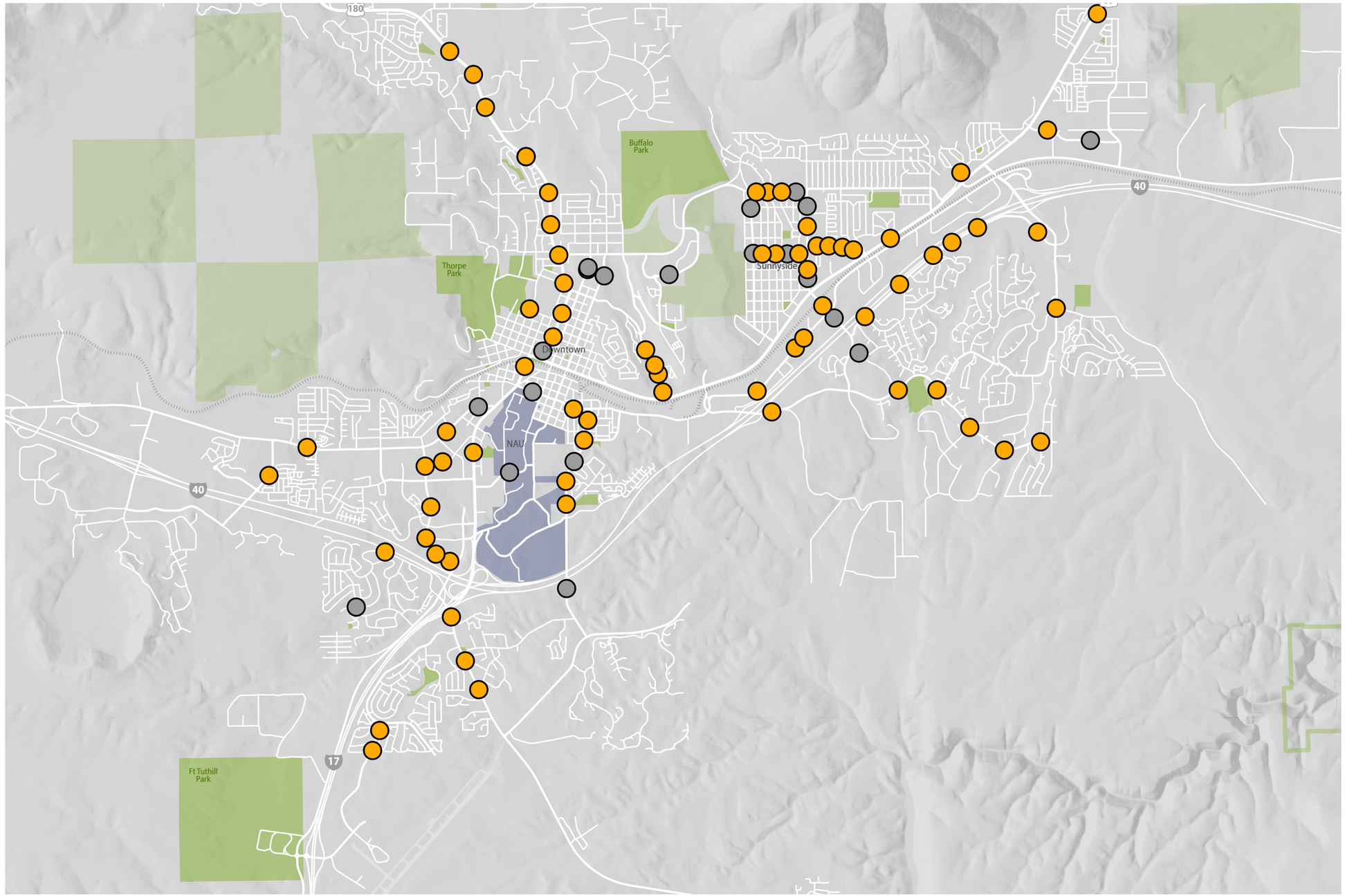


Map 8.02
Sidewalks
Missing by priority

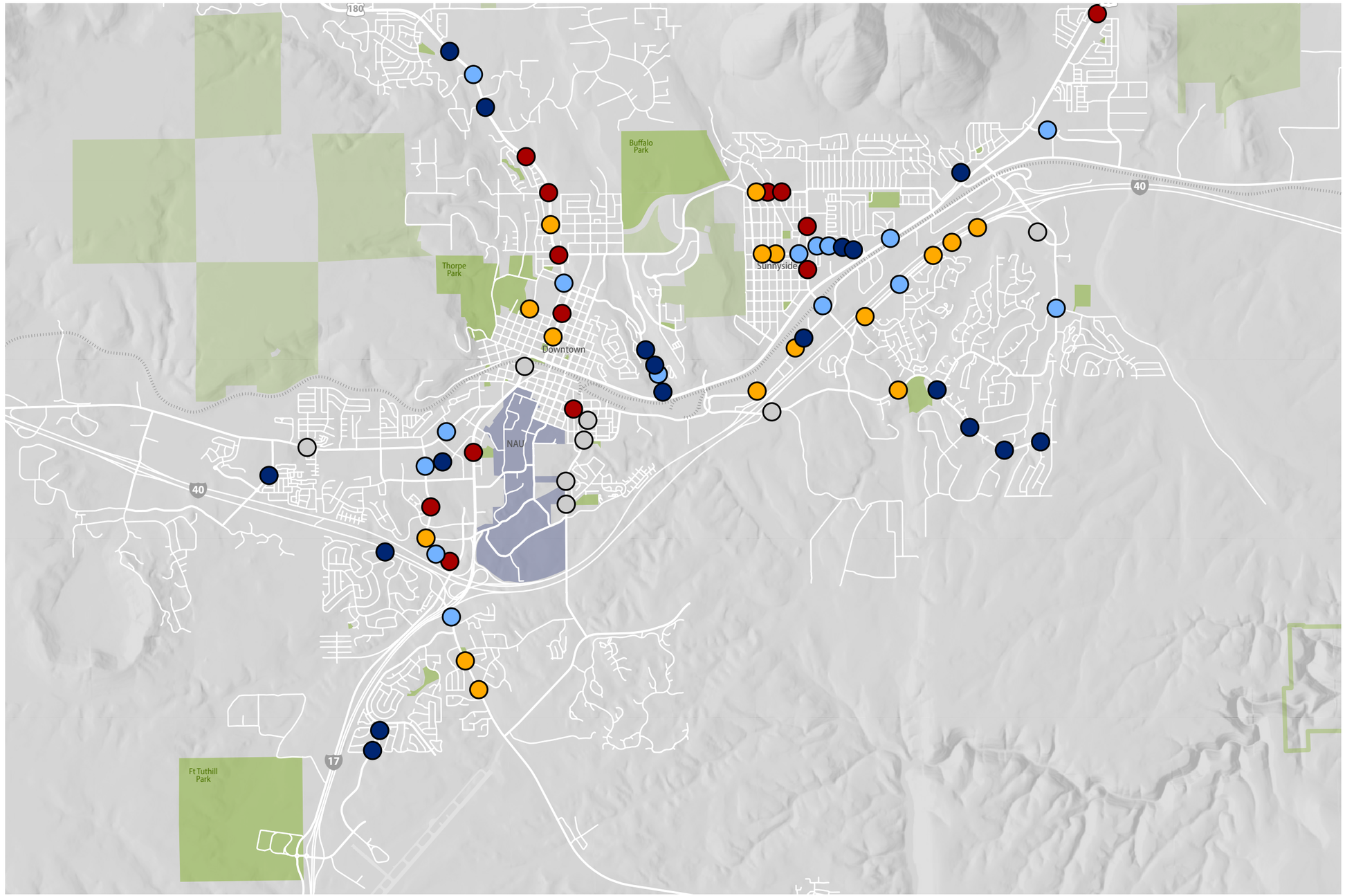
Sidewalks | by priority
- 1 First
- 2 Second
- 3 Third
- 4 Fourth
- Other project

N

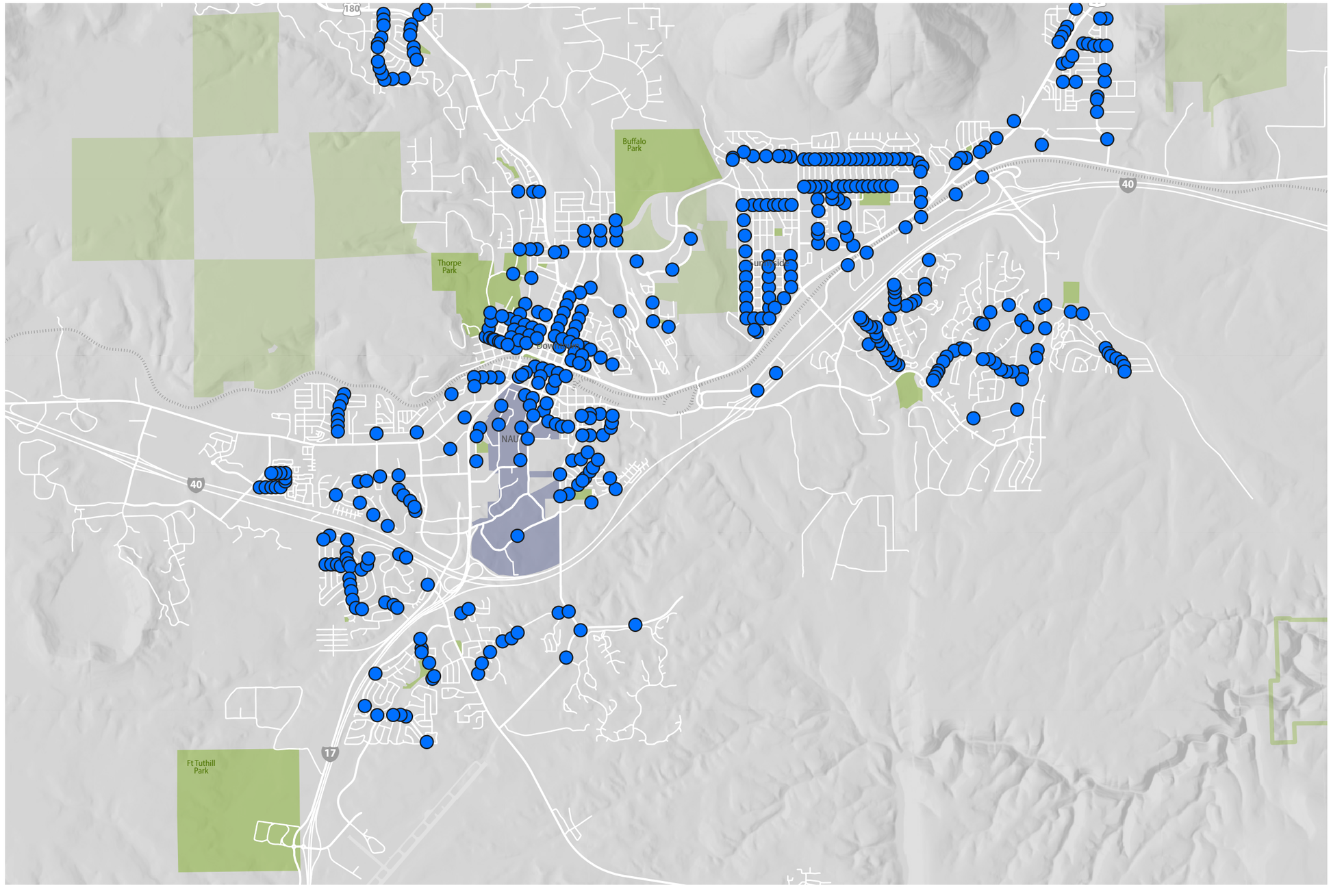
1
Miles



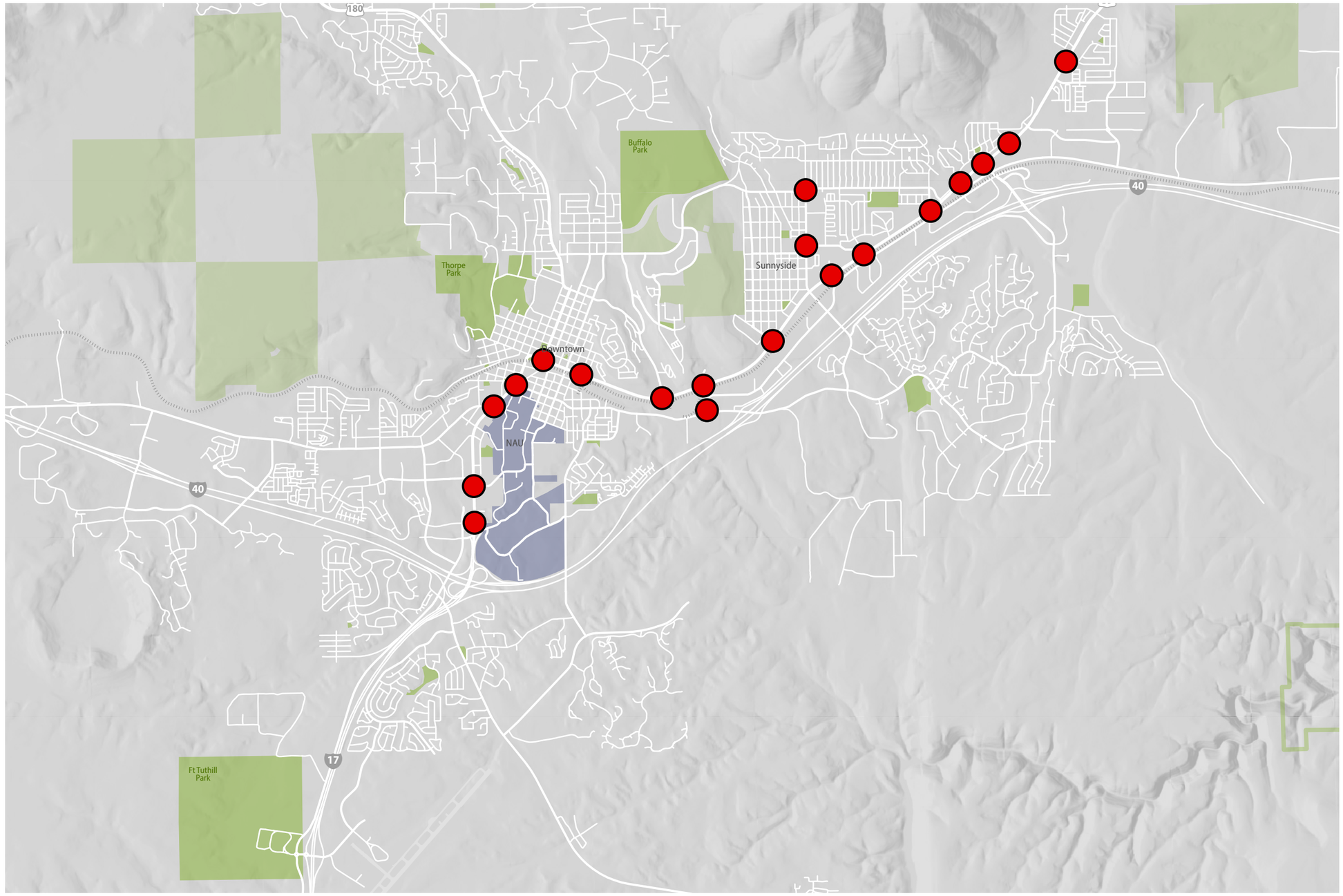
Map 8.03
Enhanced crossings
Existing and planned



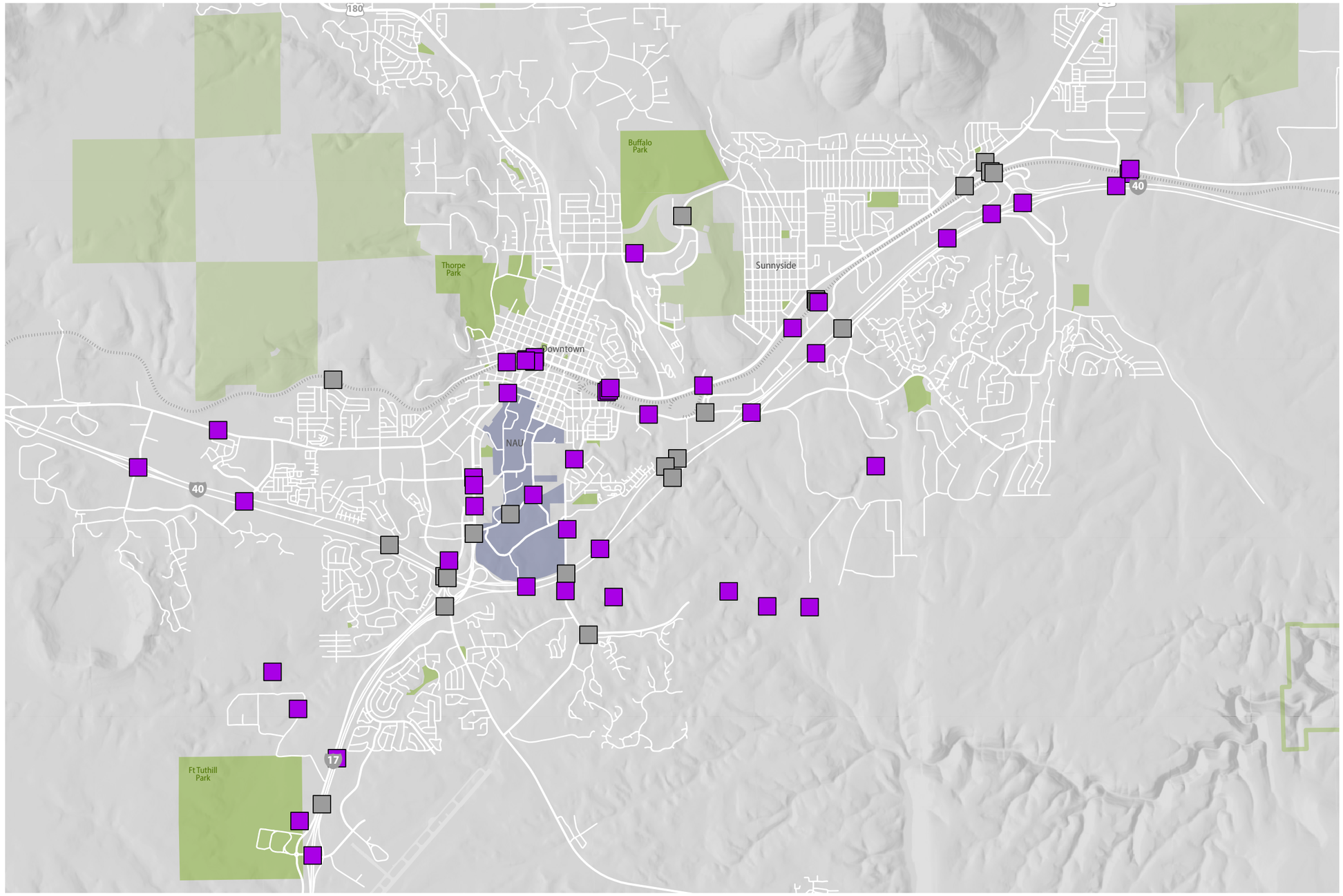
Map 8.04
Enhanced crossings Planned by priority



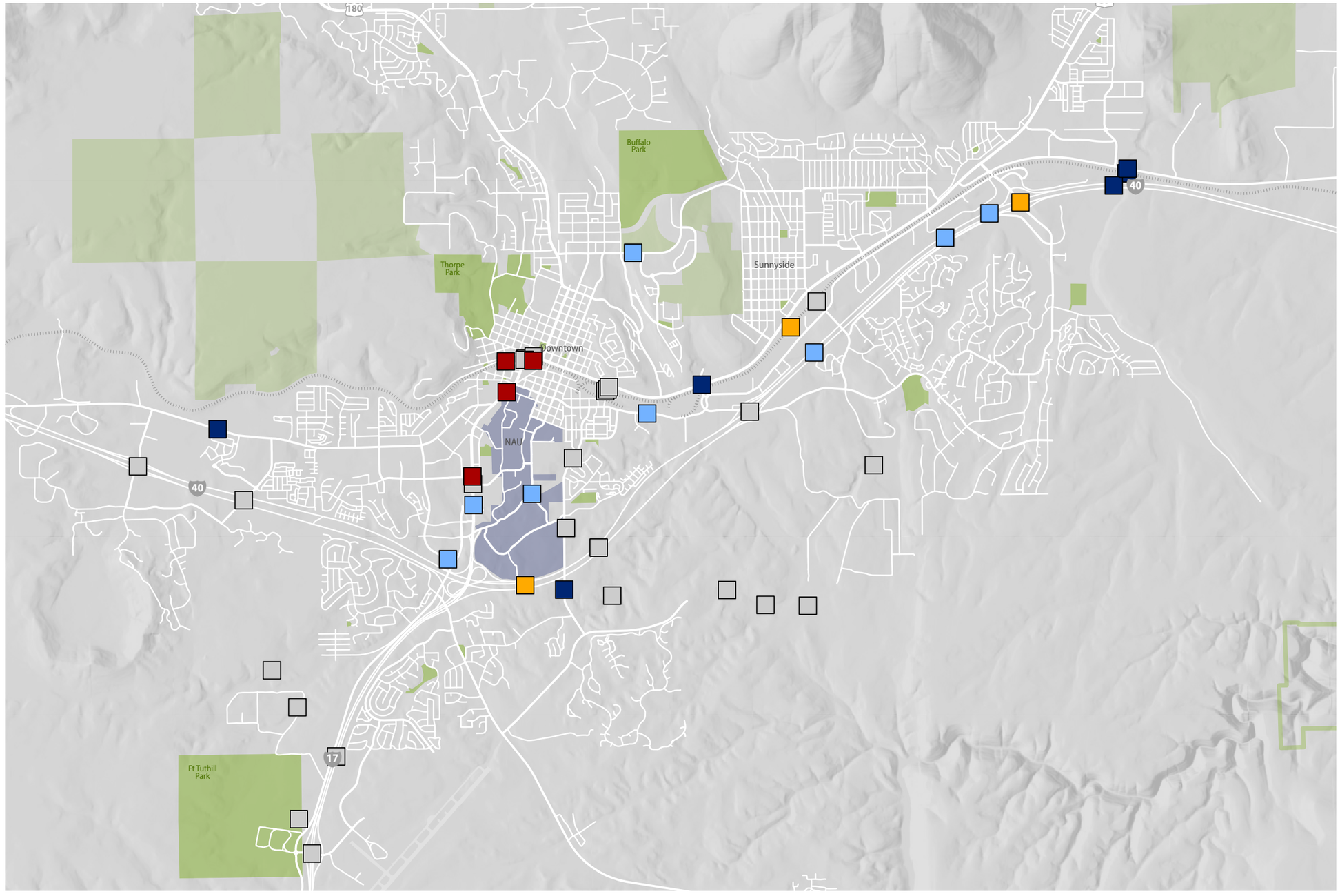
Map 8.05
Crossings Basic



Map 8.06
Crossings Restricted



Map 8.07
Separated crossings
Existing and planned

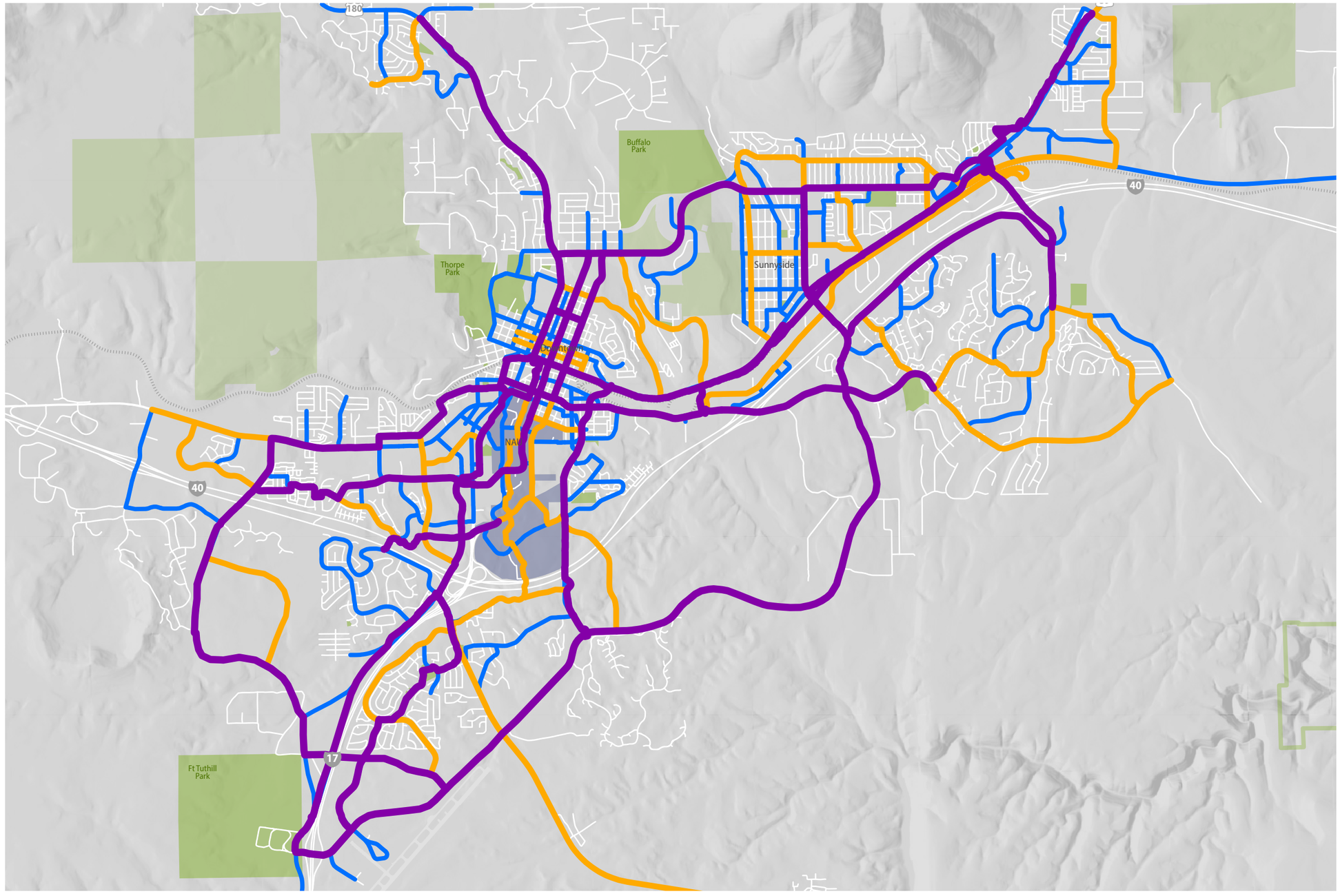


Map 8.08
Separated crossings Planned by priority

Separated crossings | by priority
- 1 First
- 2 Second
- 3 Third
- 4 Fourth
- Other project

N

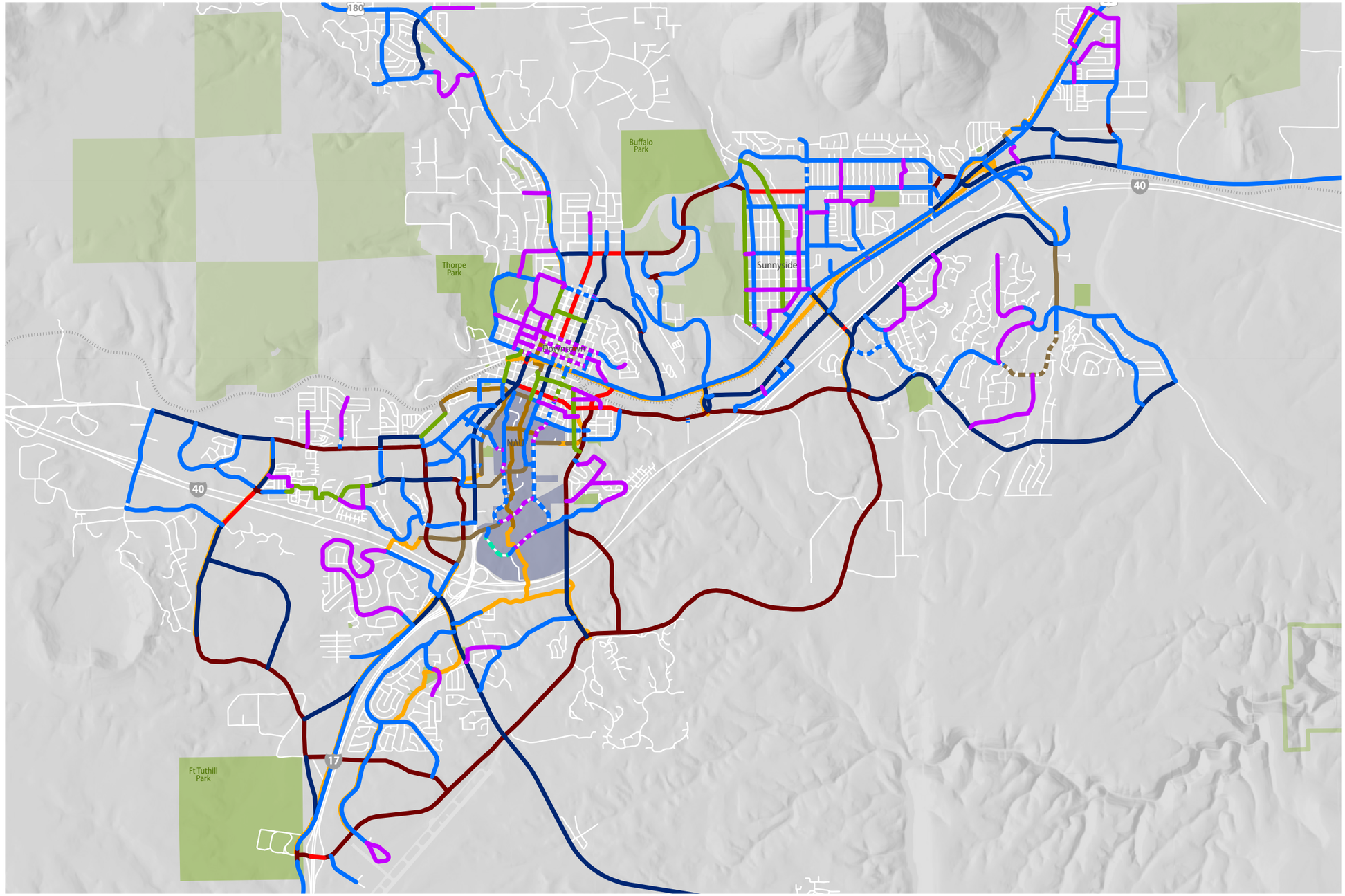
1 Miles



Map 8.09
Bikeways
By hierarchy

Bikeways | class
1 Primary
2 Secondary
3 Tertiary

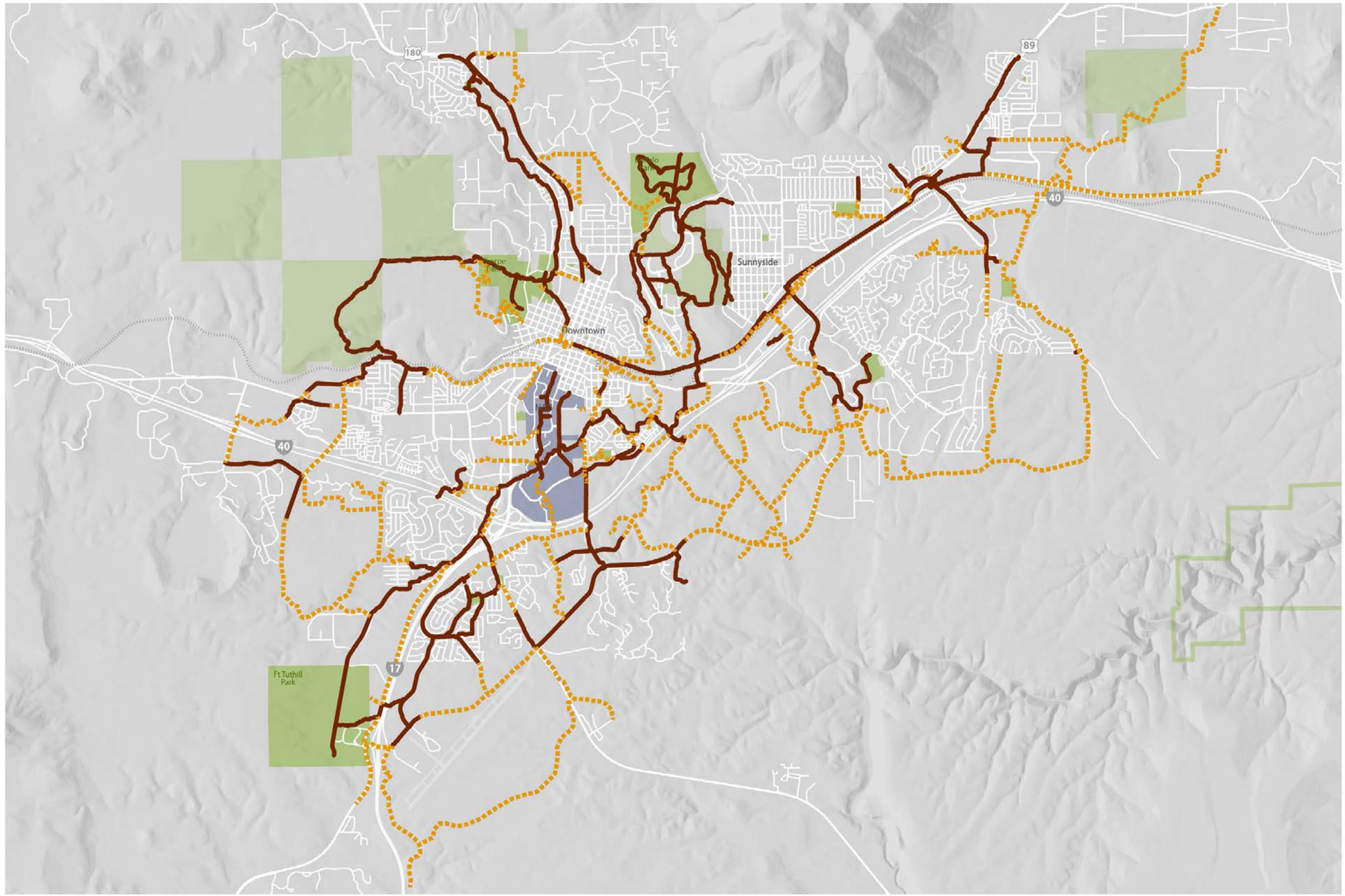
N
1
Miles



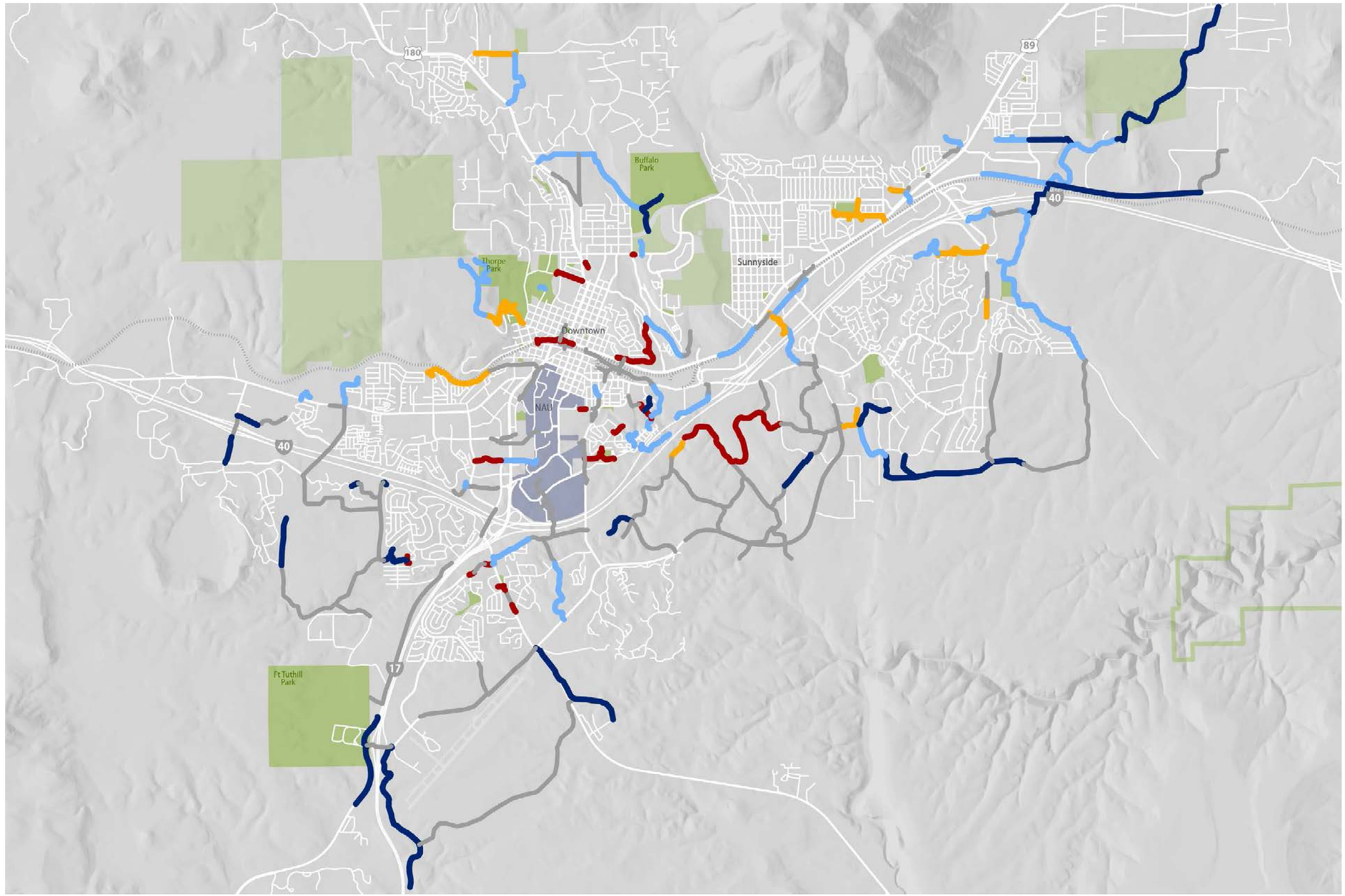
Map 8.10
Bikeways
By facility

Bikeways | facility
- Route
- Boulevard
- Shared lane markings
- SLM/bike lane
- Green SLM
- Advisory bike lanes
- Bus/bike lane
- Shoulders
- Bike lanes
- Buffered bike lanes
- Separated - vertical
- Separated - horizontal
- Cycletrack
- FUTS
- Divided FUTS
- Sidewalk

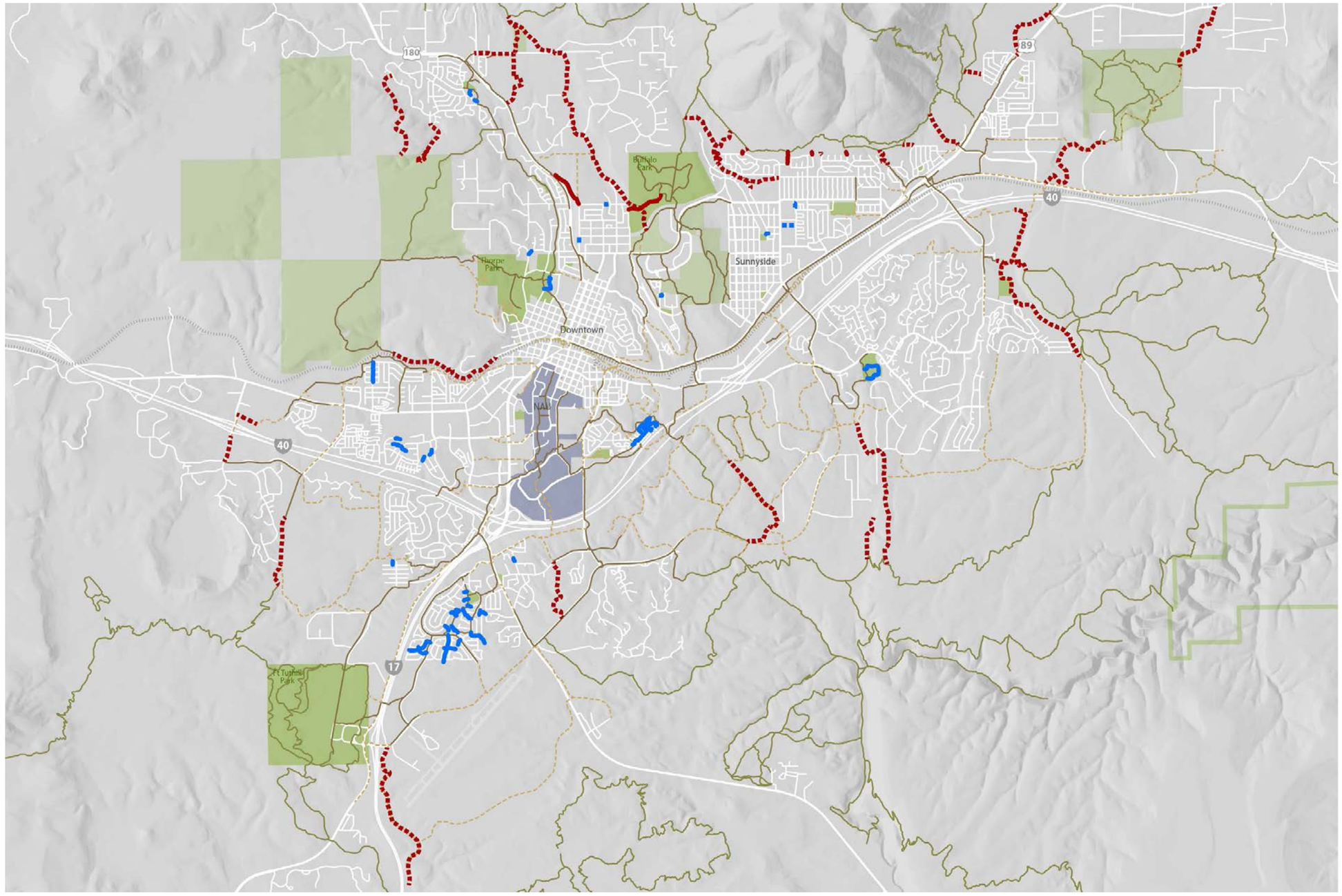
N
1
Miles



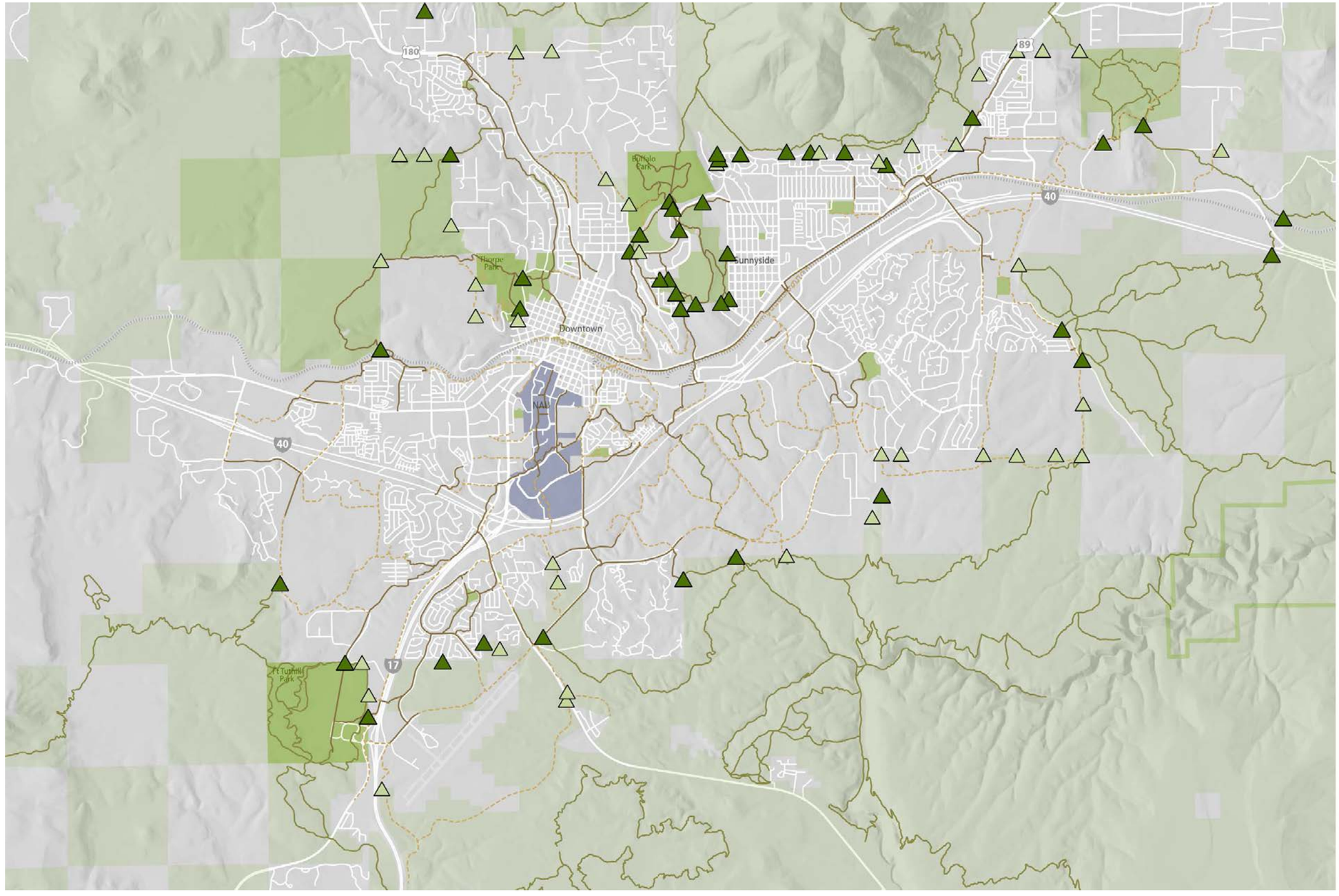
Map 8.11
FUTS trails
Existing and planned



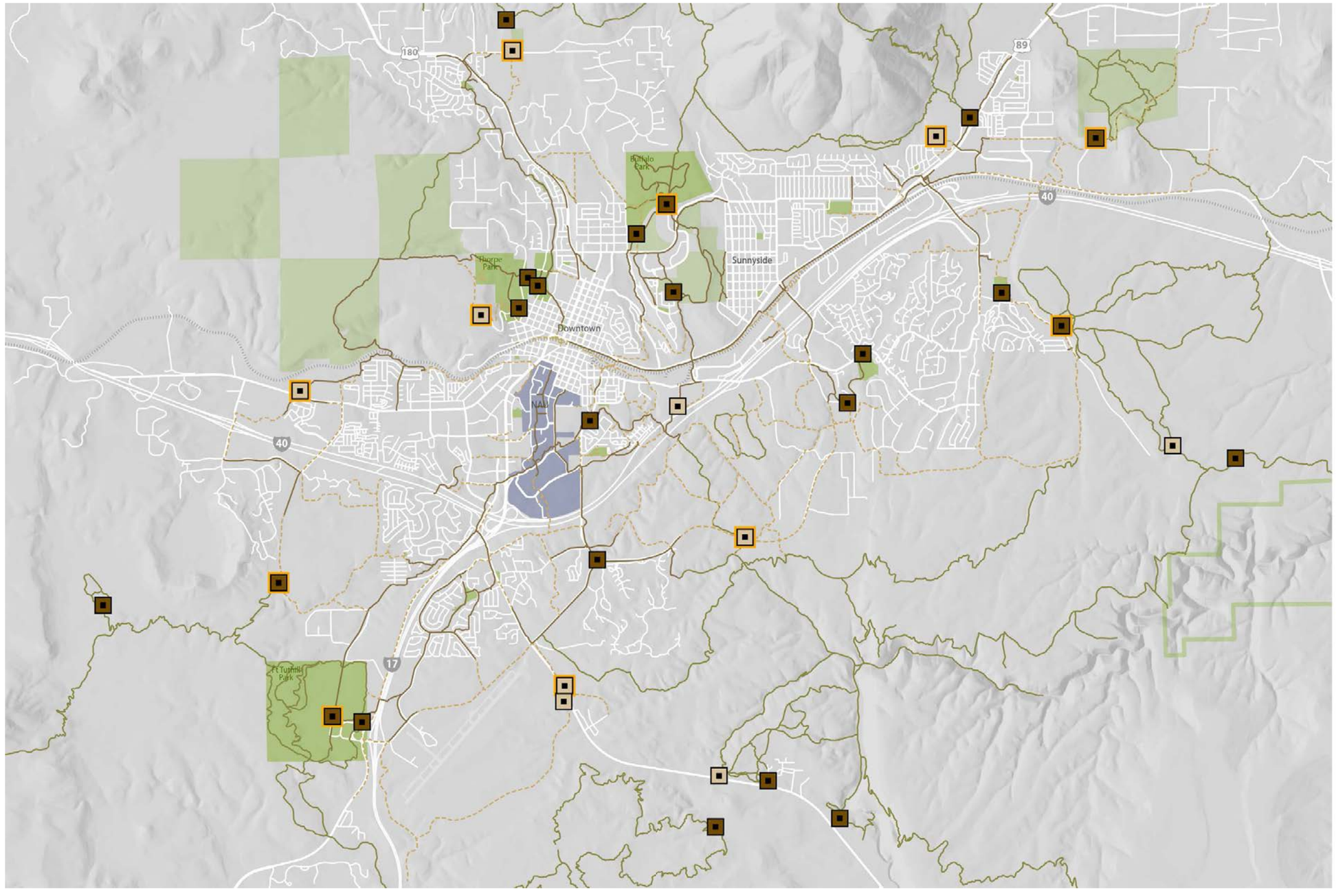
Map 8.12
FUTS trails
Planned by priority



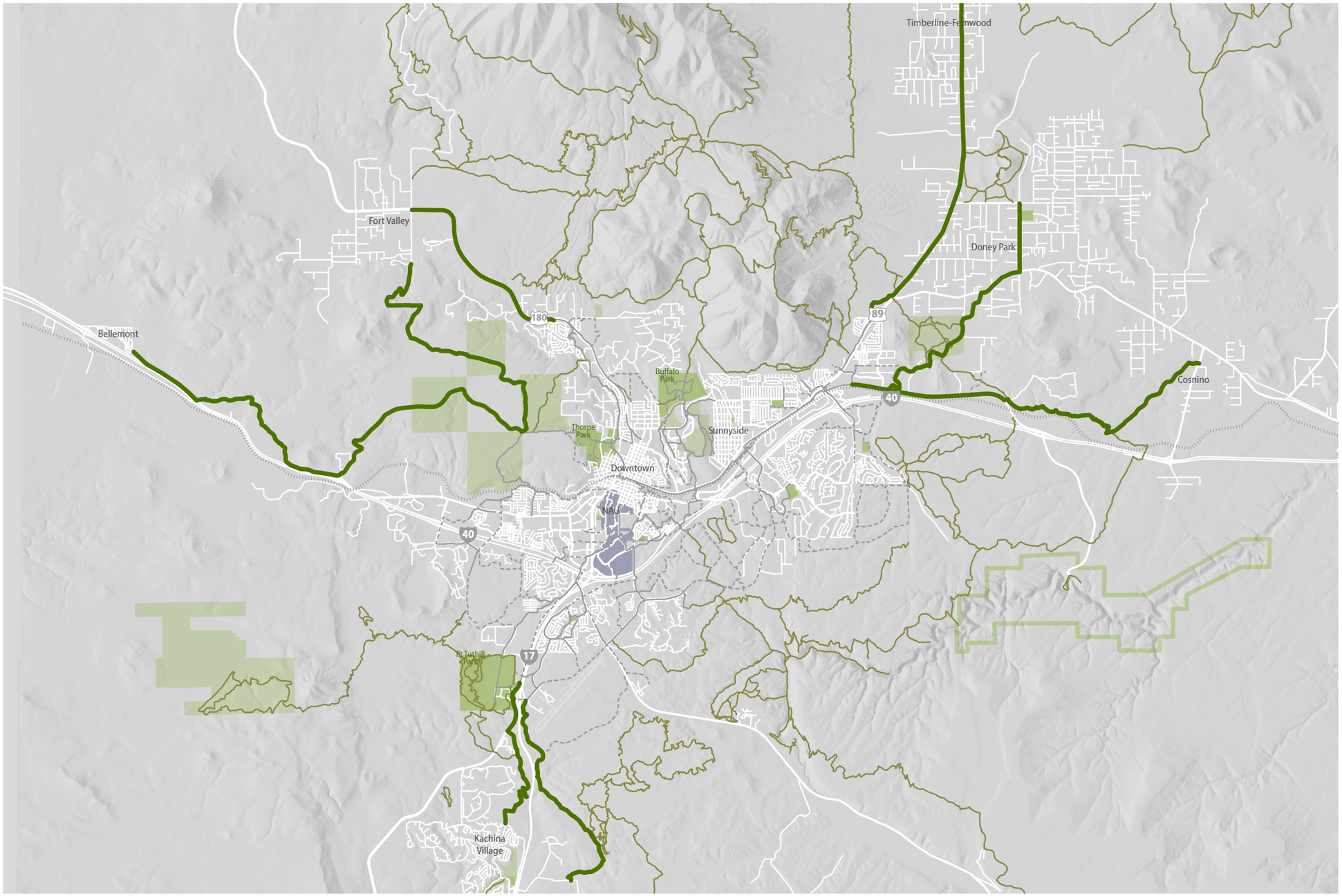
Map 8.13
Neighborhood and singletrack access trails



Map 8.14
Forest access points



Map 8.15
Trailheads and trail hubs



Map 8.16
Outlying connections

A Policies and strategies

1 Infrastructure

1.1 Implement networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient.

- Complete missing sidewalks along major streets and develop a complete pedestrian network of sidewalks, FUTS trails, walkways, and crossings.
- Implement a citywide network of low-stress bikeways.
- Expand and enhance the network of FUTS trails.

1.2 Provide frequent and comfortable crossings to eliminate barriers and avoid breaks in pedestrian and bicycle networks.

- Develop policies, guidelines, and design guidance for at-grade crossings to ensure that pedestrians and cyclists have safe and convenient crossing opportunities.
- Review intersections and other locations along minor collector and commercial local streets where basic crossing facilities such as curb ramps and crosswalk markings are missing or would be beneficial.
- Work with ADOT to identify locations for crossings on state-managed streets within Flagstaff and develop a plan for appropriate facilities.
- Review intersections where pedestrian crossings are prohibited on one or more legs for opportunities to remove the prohibitions.
- Consider additional crossings and improvements in Downtown and Southside, including midblock crossings and additional marked crosswalks.

1.3 Ensure the availability of functional bike parking.

- Maintain an inventory of existing bicycle parking, and conduct an analysis based on the inventory to identify where additional bike parking is needed.
- Review current provisions for bike parking in the Zoning Code for minimum applicability thresholds, number of spaces required, and incentives for enhanced bicycle parking.
- Develop standards and requirements for the Zoning Code for long-term bike parking for multi-family residential development and employment areas.
- Explore options for temporary or valet bike parking for events and festivals; work with other City divisions, event organizers, and civic organizations to develop incentives and requirements.
- Implement a City program to provide low-cost or no-cost bike racks to private locations and facilities where bike parking is needed.
- Evaluate current development review processes to help developers meet bicycle parking requirements and standards.
- Add bike parking clusters and corrals at suitable locations in Downtown, the Southside, and other major activity centers.

1.4 Incorporate wayfinding signage to enhance the functionality of walking and biking networks.

- Establish standards and guidelines for signage that is coordinated across pedestrian, bicycle, and FUTS networks.
- Develop and implement a comprehensive system of signage and pavement markings as an integral part of the bikeway network.

- Install additional wayfinding signs for the FUTS system, including additional map kiosks at key locations.

1.5 Work with the City's transportation partners to unify walking and biking networks.

- Integrate walking and biking connections with the transit network.
- Coordinate with Northern Arizona University to complete the pedestrian and bicycle network to and through the NAU campus, including new or enhanced points of non-motorized access between the community and campus.
- Participate in the planning processes of other road-managing agencies, and include them as stakeholders in City plans, to support coordination across jurisdictions.

1.6 Connect walking and biking facilities with regional trails and open space to ensure convenient access from all Flagstaff neighborhoods.

- Plan and implement a system of greenways, parks, and open space in conjunction with the FUTS network.
- Collaborate with the Flagstaff Trails Initiative and other trail managing agencies on regional trails planning and implementation.
- Work with regional partners to implement a plan for trail connectivity and other non-motorized points of access between Flagstaff neighborhoods and the national forest and regional open space.
- Plan for direct connectivity and integration between pedestrian, bicycle, and FUTS networks and regional recreational trails, including the Arizona National Scenic Trail and the Flagstaff Loop Trail.
- Develop a system of trailheads and trail hubs to improve access and enhance connectivity between regional trails and the FUTS system.
- Work with Coconino County and the Forest Service to plan for non-motorized commuter access from outlying communities to Flagstaff.

1.7 Identify and take advantage of opportunities to fund and implement the pedestrian and bicycle network.

- Develop 5-year and 20-year plans for construction of pedestrian and bicycle projects for inclusion in the City's capital improvements program.
- Develop guidelines and standards to ensure that pedestrian and bicycle accommodation is addressed in City capital projects and private development, in a fair and consistent manner.
- Find opportunities to include pedestrian and bicycle facilities in capital and street projects undertaken by other agencies, including NAU, Coconino County, and ADOT.
- Monitor grant opportunities that could be used for pedestrian and bicycle projects.
- Explore options to make project delivery more efficient and faster, including alternative project delivery methods, especially for small projects.

2 Maintenance and operations

2.1 Maintain walking and biking infrastructure in a state of good repair.

- Keep up-to-date inventories of facilities and conditions, coordinate information sharing across City divisions, and establish shared priorities for maintenance so the most important facilities and concerns are addressed first.
- Ensure that maintenance budgets are adequate to keep facilities in good condition and explore additional funding sources.
- Conduct a review of peer communities and other cities for ideas, programs, and best practices for maintenance.

- Develop standards and guidelines for sustainable facilities to reduce the need for and costs of maintenance.
- Establish a regular maintenance schedule and program for walking and biking facilities, based on minimum standards or targets for condition.
- Review current maintenance practices to find efficiencies and implement best practices.

2.2 Clear ice and snow from pedestrian and bicycle facilities to keep them usable through the winter months.

- Adopt snow clearing policies and practices for bike lanes, sidewalks, and FUTS trails.
- Establish a hierarchy of routes for sidewalks, bikeways, and FUTS trails to help prioritize snow clearing.
- Provide detailed information, schedules, and maps for snow clearing so the public knows what to expect during snow events.
- Conduct a review of our peers and other communities for ideas, programs, and best practices for snow clearing.
- Consider a range of options for compliance and enforcement of private snow removal on sidewalks.
- Include considerations for snow clearing and snow storage in the design and construction of facilities.

2.3 Keep walking and biking facilities free of blockages and debris.

- Provide and promote convenient ways for the public to map and report obstructions and other problems to the City, including the Citizen Tracker function on the City's website.
- Work with the Flagstaff Police Department on reporting and enforcement of parked vehicles on sidewalks, bike lanes, and FUTS trails.
- Review street sweeping schedules and practices for efficiencies and effectiveness, particularly in the winter and spring, to keep sidewalks and bike lanes clear of cinders.
- Support volunteer and neighborhood efforts that could be expanded to include sidewalk sweeping and vegetation removal.
- Expand the public outreach and education campaign to increase public awareness and encourage the public to keep sidewalks, bike lanes, and FUTS trails clear of blockages, including trash and recycling bins and bulky trash.

2.4 Limit the impact of closures on walking and biking facilities.

- Review the City's procedures for temporary traffic control plans to ensure that sidewalks, bike lanes, and FUTS trails are included and addressed.
- Develop guidelines and standards for closures to minimize the impacts of closures on pedestrians and bicyclists and to ensure they are accommodated when closures occur.
- Consider a fee structure for closures to reflect the cost to the community and to encourage better planning for closures.
- Establish procedures for consistent and systematic notification of closures to the community.

2.5 Improve and enhance existing pedestrian and bicycle facilities to meet basic levels of functionality and accessibility.

- Create an inventory of potential improvements and enhancements for walking and biking, including those that support accessibility and universal design, and prioritize those that are most needed.
- Include funding for improvements and enhancements as part of the capital plan and budget for pedestrian and bicycle facilities.
- Identify opportunities to address improvements and enhancements as part of other projects, including capital projects and private development.

- Maintain a list of improvements and enhancements to the FUTS; prioritize the list and find ways to fund and implement.

3 Support and encouragement

3.1 Use information and maps to promote, encourage, and make it easier to walk and bike.

- Update the City's web page to include useful and current information on walking, biking, and trails.
- Use MoveMeFLG (movemeflg.com) as a central clearing house for information on walking, biking, transit, and other sustainable travel options.
- Create a dedicated social media presence for active transportation that regularly communicates with the public.
- Continue publication of the Flagstaff Urban Trails and Bikeways Map in both printed and digital form.
- Explore the use of online maps with interactive route planning functionality to help users find the best way to walk or bike to their destination.
- Provide private map services with current and accurate walking and biking information, including OpenStreetMap, Google maps, and Apple maps.
- Create walking maps for Downtown, Southside, and other neighborhoods, or for specific themes like public art, historic sites, or bird watching, to encourage residents and visitors to explore the community.
- Integrate travel information across a variety of modes – walking, biking, transit, bikeshare, micromobility, ride hailing services, car share, vanpools, paratransit – to support flexibility and options for mobility.

3.2 Promote events and activities that support walking and biking.

- Promote Bike to Work Week and Flagstaff Walks! as signature Flagstaff events for walking and biking.
- Work with community partners to organize additional walking and biking events, such as theme walks, community bike rides, or group hikes.
- Create a walking calendar as a centralized listing of all the organized walking events around Flagstaff.
- Organize cyclovias, open streets, slow streets, and other events that temporarily close street segments and corridors to vehicles and open them to walking, biking, and other activities.
- Seek and publicize national recognition for Flagstaff as a walkable and bikeable community.

3.3 Work towards equity and inclusion in pedestrian and bicycle programs.

- Conduct equity analyses of infrastructure plans to ensure equitable distribution of facilities and to verify that low income and underserved neighborhoods are covered.
- Develop working relationships with community and neighborhood groups to encourage more public involvement in transportation projects and planning processes.
- Establish formal equity guidelines and practices to foster better inclusion in our planning processes.
- Engage with relevant boards and commissions, including the City's Diversity Awareness Commission and Commission on Inclusion and Adaptive Living, and MetroPlan/Mountain Line's Coordinated Mobility Council.
- Recruit women, people of color, and other under-represented groups to serve on the Pedestrian Advisory Committee, Bicycle Advisory Committee, Transportation Commission, and other transportation-related groups.

3.4 Incorporate universal access as a key component of walking and biking.

- Review the City's practices and standards for walking and biking facilities to verify that they are compliant with best practices for accessibility.

- Conduct an inventory of missing and existing curb ramps, an assessment of condition and ADA compliance, estimated costs, potential funding sources, and opportunities to complete as part of other projects.
- Incorporate principles of Universal Design to create facilities that are usable by everyone regardless of age, ability, or status.
- Improve accessibility of FUTS trails for all users, and provide better information to the public about accessibility and trail conditions.

3.5 Pursue other programs and facilities that are supportive of walking and biking.

- Implement a citywide bike share program.
- Work with local groups to establish a Flagstaff community bicycle collective.
- Explore space and programming for bike stations and mobility hubs in future public projects, including the Downtown Connection Center, parking garages, and other public facilities.
- Support the use of bikes, e-bikes, and other micromobility devices for more of the community to enhance mobility options through creative programs and potential financial incentives.

3.6 Develop beneficial relationships with our community partners to promote walking and biking.

- Coordinate with the Convention and Visitor's Bureau to produce useful information on walking, biking, and trails to share with visitors.
- Work with the City's business retention and attraction specialists to promote walking, biking, and trails as community assets for business retention and attraction.
- Coordinate efforts to promote walking and biking with Northern Arizona University.
- Stay engaged with a broad range of stakeholder groups and individuals, including advocacy groups, public health professionals, neighborhood associations, healthcare providers, wellness coordinators, and bike and outdoor shops.
- Support local advocacy groups for walking and biking.

3.7 Explore ways to grow City staff resources for active transportation.

- Add new program staff for walking and biking.
- Bolster staff resources using interns, student projects, and AmeriCorps VISTA workers.
- Find ways to share the workload with other divisions, programs, and staff where work programs and missions overlap.

4 Safety

4.1 Establish comprehensive education and safety programs for pedestrians, bicyclists, and motorists.

- Organize an ongoing schedule of safety and education classes.
- Recruit community members to become League Certified Instructors (LCI) for bicycle safety, including individuals from the Flagstaff Police Department, NAU, and the Pedestrian Advisory Committee, the Bicycle Advisory Committee, and Transportation Commission.
- Expand the Bicycle Diversionary Class program to provide an education alternative for bicyclists who receive traffic citations.
- Use ongoing safety campaigns to disseminate pedestrian and bicycle safety information.

- Explore options to help educate motorists on safe and courteous driving practices around pedestrians and bicyclists.

4.2 Adopt a comprehensive transportation safety action plan and strategy with the explicit intent and goal to eliminate traffic fatalities and serious injuries.

- Establish a City or regional safety panel which meets regularly to share and review transportation safety information, with representation from a variety of stakeholders, including law enforcement, transportation planning, engineering, and public works, as well as regional partners such as Mountain Line, NAU, ADOT, and MetroPlan.
- Conduct roadway safety audits or assessments at locations identified as having high volumes or high rates of crashes.
- Collect before-and-after counts and crash data for major transportation projects to assess their impact and better understand the factors that affect pedestrian and bicycle crashes.

4.3 Re-establish a community-wide Safe Routes to School (SRTS) program.

- Work with FUSD and charter schools to develop detailed inventories of walking, biking, and transit opportunities in the vicinity of school campuses with the goal of creating safe to school routes and maps.
- Partner with FUSD on improvement projects using Adjacent Ways and other available funding sources.
- Team with the Coconino County Injury Prevention program to identify ongoing sources of funding for an SRTS coordinator and program.
- Develop a toolkit of options for schools to address drop-off and pick-up traffic that focuses on walking, biking, transit, school buses, carpooling, and other programmatic solutions.
- Engage school bicycle and mountain bike clubs to promote education and encouragement.

4.4 Work with the Flagstaff Police Department to advance enforcement efforts that improve safety for pedestrians and bicyclists.

- Support additional resources needed to re-establish a bicycle patrol within the Flagstaff Police Department.
- Conduct regular targeted enforcement efforts; work with the Flagstaff Police Department to identify the most serious and impactful offenses to target, and include an educational component to maximize the effectiveness.
- Hold in-service pedestrian and bicycle training for officers to ensure they are well-versed in pedestrian and bicycle laws and safe behaviors.

4.5 Verify that walking and biking facilities allow and encourage safe behavior for all users.

- Discourage bicycling on sidewalks through better infrastructure and education.
- Promote user courtesy on FUTS trails via public outreach and education.
- Address perceived safety concerns along FUTS trails with better design and information.
- Encourage bicycle helmet use through education and enforcement.
- Work with law enforcement to reduce the incidence of bike theft through convenient bicycle registration and better bicycle parking and storage.

5 Transportation and land use planning

5.1 Use Travel Demand Management (TDM) as a guiding principle for transportation and land use planning.

- Develop a plan for TDM that includes a broad list of potential strategies and an assessment of how they might be implemented.
- Work with Mountain Line, NAU, the Downtown Business Alliance (DBA,) and other community partners to develop and implement TDM strategies.
- Consider a process that allows a developer to choose from a menu of TDM strategies to offset or mitigate traffic impacts, including adding or enhancing pedestrian and bicycle facilities, as an alternative to building road capacity projects.
- Explore ways to manage the demand for parking and mitigate its impacts.

5.2 Establish a "complete transportation" process for all City transportation plans and projects that incorporates broad community objectives.

- Expand considerations for walking, biking, and transit in transportation impact analysis (TIA) and traffic modeling.
- Follow principles of context-sensitive solutions and complete transportation in all transportation plans and projects.
- Adopt and implement a formal Complete Streets policy.

5.3 Review current transportation-related standards, guidelines, and processes to identify opportunities to implement this plan and better support walking and biking.

- Conduct a comprehensive review of the Zoning Code and Engineering Standards for provisions that affect walking and biking, and develop recommendations for revisions.
- Review street and intersection standards to ensure that street design emphasizes safety and comfort for all users.
- Review other transportation processes and permits for their impact on walking and biking.
- Consider corridors with excess vehicle capacity for possible implementation of road diets.

5.4 Adopt design guidelines that reflect best practices for streets, intersections, pedestrian and bicycle facilities, and trails.

- Develop detailed design guidelines for walking and biking facilities based on best practices, innovative facilities, and reference guides from national sources such as AASHTO, PROWAG, and NACTO.
- Revise the Zoning Code and Engineering Standards to incorporate new standards where appropriate.
- Provide training and education on best practices for pedestrian and bicycle facilities for staff, design professionals, policy makers, and the community.

5.5 Incorporate principles of placemaking in street design and pedestrian and bicycle infrastructure.

- Incorporate public art and decorative design elements in transportation facilities.
- Integrate Great Streets principles in pedestrian, bicycle, street, intersection, and corridor projects and plans.
- Protect and celebrate cultural, historic, and natural resources where they exist along walking and bicycling networks.
- Find locations for and install benches, seating areas, civic spaces, and gathering areas along walking and biking networks.

6 Evaluation

6.1 Collect and analyze data related to walking and biking.

- Establish a regular program of pedestrian and bicycle counts, including counts on FUTS trails.
- Explore other sources for information on walking and biking patterns, including acquisition of third-party data.
- Produce an annual report for pedestrian and bicycle crash data.
- Collect and analyze mode share data to assess the health of walking and biking.
- Support MetroPlan's periodic Trip Diary Survey and other data collection efforts regarding travel patterns and mode share.

6.2 Provide opportunities for community engagement and feedback.

- Keep the City Council, boards and commissions, and committees informed and actively engaged in walking, biking, and trail issues.
- Conduct regular, periodic surveys on walking and biking through the Flagstaff Community Forum, including annual user surveys for walking, biking, and FUTS.
- Facilitate convenient methods for public reporting of walking and bicycling concerns.

6.3 Conduct regular assessments of walking and biking conditions.

- Use pedestrian, bicycle, intersection, and crossing comfort indices to help assess the pedestrian and bicycle environment.
- Use feedback from national programs like the Walk Friendly Community and Bicycle Friendly Community programs to better understand where improvement is needed.
- Conduct regular neighborhood walking, biking, and accessibility audits as a community-based tool for evaluation and education.
- Conduct periodic reviews to assess the progress made on implementation of this ATMP, and report the results to the public, stakeholders, boards and commissions, committees, and the City Council.

B Common acronyms

- AASHTO American Assn of State Highway Transportation Officials
- ACS American Community Survey
- ADA Americans with Disabilities Act
- ADAAG Americans with Disabilities Act Accessibility Guidelines
- ADOT Arizona Department of Transportation
- ADT Average daily traffic
- APS Accessible pedestrian signals
- ARS Arizona Revised Statutes
- ATMP Active Transportation Master Plan
- BAC Bicycle Advisory Committee
- LBI Lead bicycle interval
- CIP Capital Improvement Program
- CSS Context sensitive solutions
- CVB Convention and Visitor's Bureau
- DBA Downtown Business Alliance
- FHWA Federal Highway Administration
- FMPO Flagstaff Metropolitan Planning Organization (now MetroPlan)
- FTA Federal Transit Administration
- FUTS Flagstaff Urban Trails System
- GHG Greenhouse gases
- IIJA Infrastructure Investment and Jobs Act
- LAB League of American Bicyclists
- LCI League Certified Instructor
- LOS Level of service
- LPI Lead pedestrian interval
- MOV Multiple occupant vehicle
- MUTCD Manual on Uniform Traffic Control Devices
- NACTO National Association of City Transportation Officials
- NAU Northern Arizona University
- NPS National Park Service
- PAC Pedestrian Advisory Committee
- PHB Pedestrian hybrid beacon
- PROWAG Proposed Rights-of-Way Accessibility Guidelines
- PTN Permanent transit network
- ROW Right-of-way
- RRFB Round or rectangular flashing beacon
- RRSS Road Repair and Street Safety
- SOV Single occupant vehicle
- TDM Travel Demand Management
- TIA Transportation impact analysis
- TND Traditional neighborhood design
- TOD Transit oriented development
- TWLTL Two-way left turn lane
- USFS US Forest Service
- VMT Vehicle miles traveled

Active Transportation Master Plan Amendments

City Council | 3 July 2023

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Active Transportation Master Plan

Subtitle – 32pt

- Adopted by City Council on Nov 1, 2022 by resolution No. 2022-50
- Guide for enhancing walking and biking:
  - Policy guidance to advance the transportation goals and vision of the Regional Plan
  - Establish specific goals and strategies to support and promote walking and biking
  - Identify and prioritize needed infrastructure

ATMP amendments

- Proposed amendments support Safe Streets for All (SS4A) grant application for Butler Ave complete street conversion
  - Reference safety as factor in prioritization of infrastructure
  - Identify corridors for potential “complete streets conversions”
  - Including Butler Ave

Summary of amendments

- Updates pedestrian and bicycle crash report to reflect 2017-2021 data (Ch 1, p6)
- Amends safety targets to add serious injury crashes to target of zero fatal pedestrian and bicycle crashes (Ch 4, pp25-26)
- References safety and crash data in prioritization of projects (Ch 8, p66)
- Adds a link to ATMP online map (Ch 8, p69)
- Adds a section to infrastructure recommendations for “Complete streets conversions,” describes the conversions, and includes a map with four priority corridors (Ch8 p78-79)

Complete streets conversions

- Typically a combination of needed infrastructure: sidewalks, crossings, bikeways, FUTS trails
- Opportunity for other enhancements: median islands, parkway strips, streetscaping/landscaping, accessibility improvements
- Higher levels of ped-bike use
- High crash corridors
- Proximate to target neighborhoods

Complete street conversions



Safe Streets for All grant

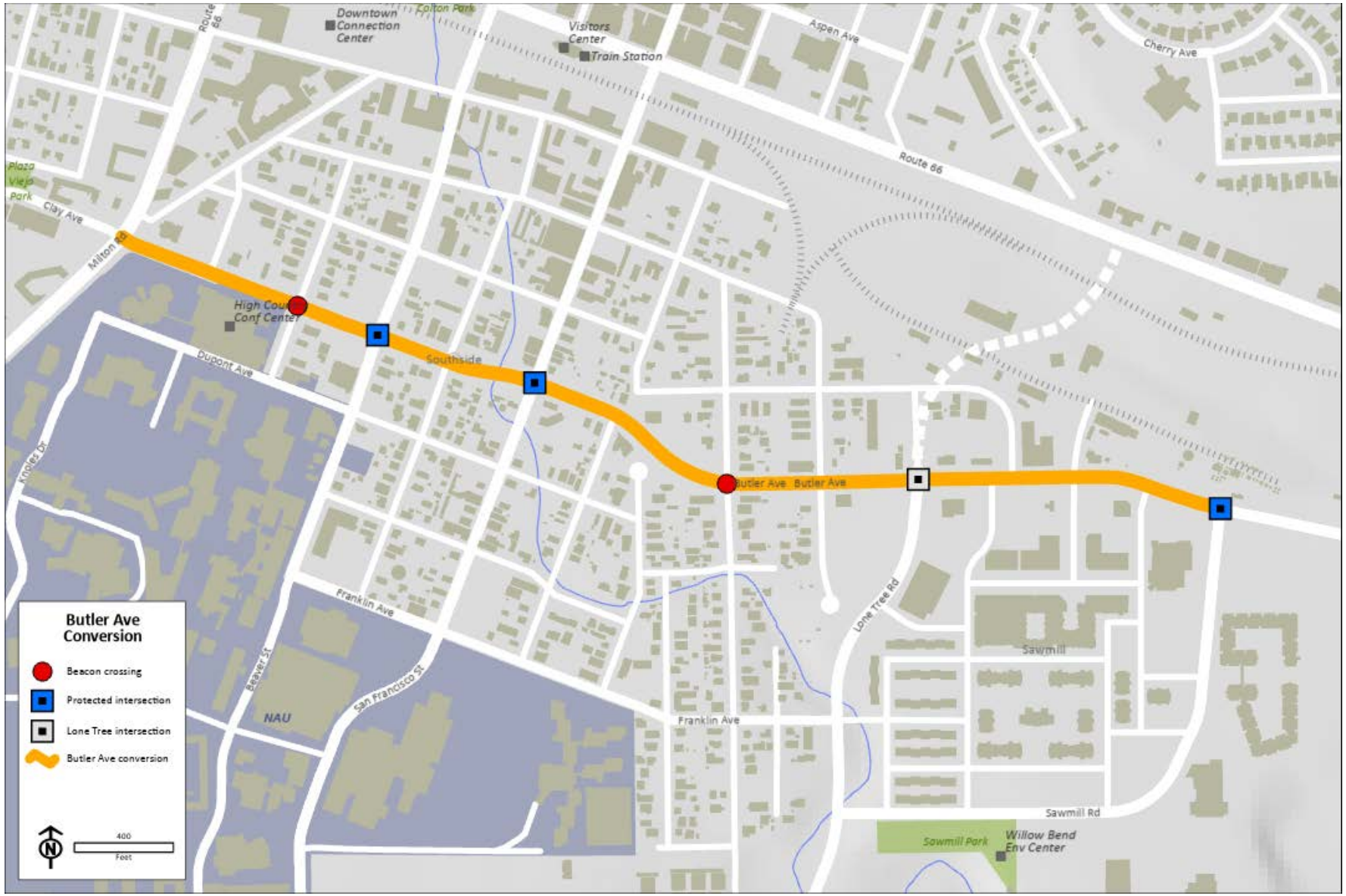
- Federal program funded at $5 billion over next 5 years
- Intended to prevent roadway deaths and serious injuries
- Two grant types:
  - Planning: development of safety action plan
  - Implementation: projects or strategies identified in action plan
- Implementation $2.5m to $25m per grant
- Emphasis on equity

Butler Ave complete street conversion

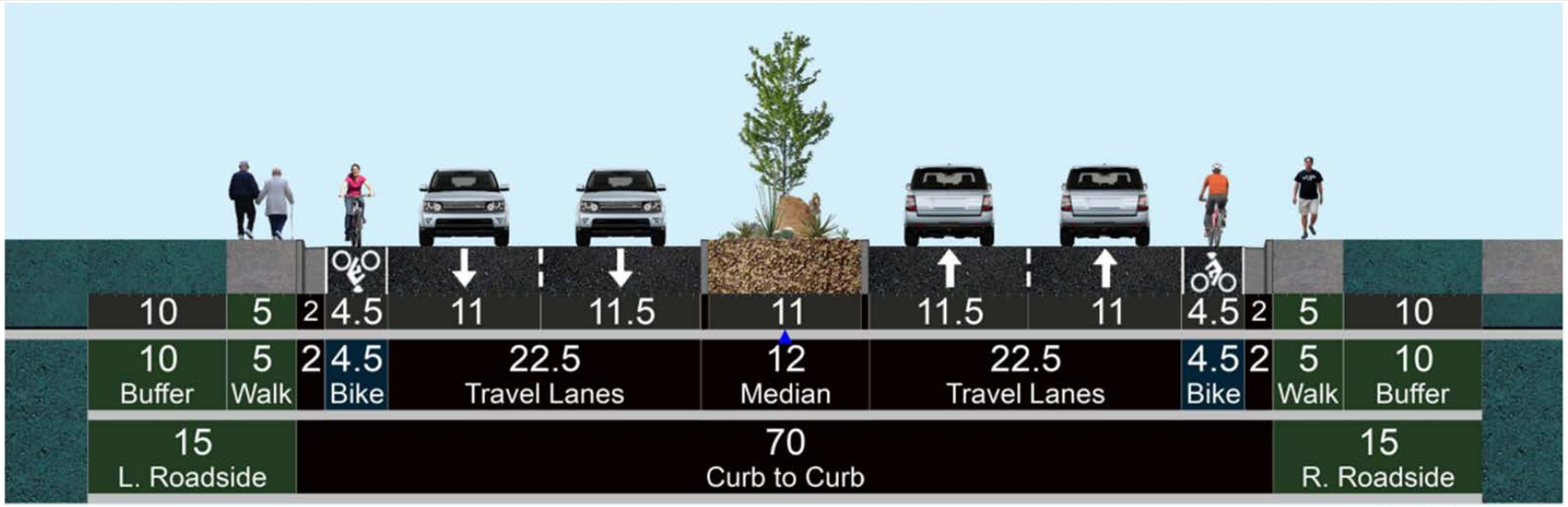
Butler Ave – Milton to Sawmill (0.9 miles)

- Separated bike lanes to replace pilot barriers
- Protected intersections: Beaver, San Francisco, Lone Tree, and Sawmill
- Enhanced beacon crossings: O'Leary, Humphreys
- Wider sidewalk/added parkway
- Speed management
- Total project cost: $12m (fed: $9.6m local: $2.4m)

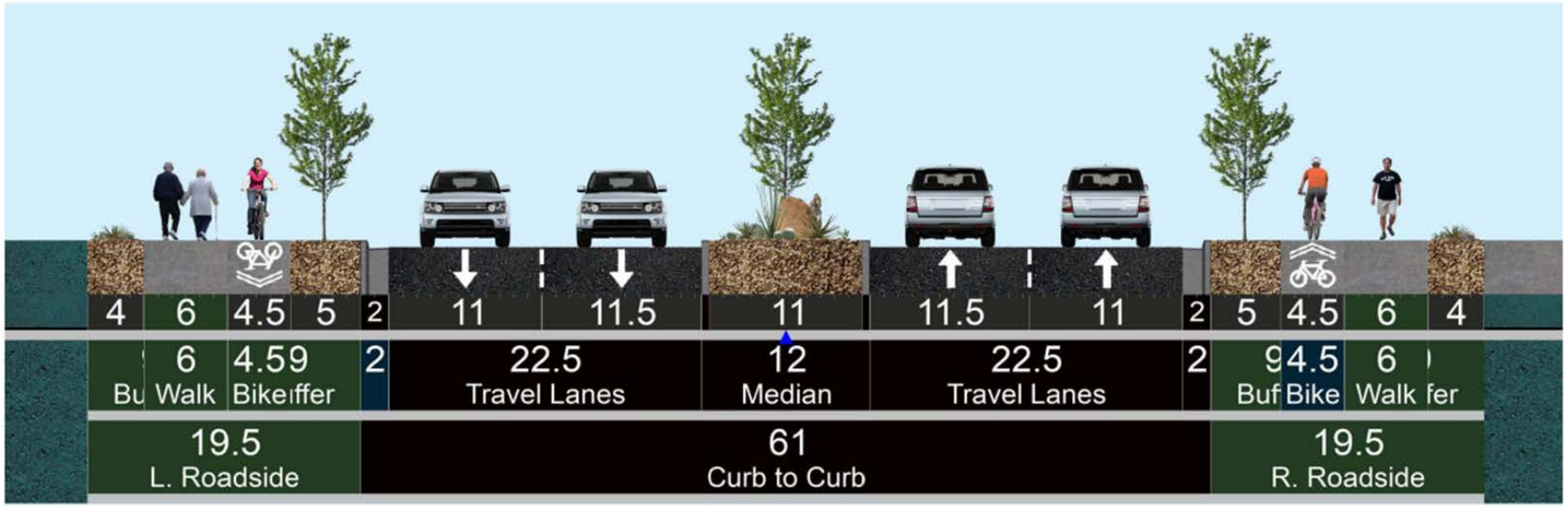
Butler Ave complete street conversion



Butler Ave complete street conversion



Original configuration



Planned configuration

11. E.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE

Citizen Petition: Consideration of Prior Council Action: Consideration and Approval of Contract: Approve a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park.

STAFF RECOMMENDED ACTION:

Should the Council wish to consider this prior action, a motion to consider the prior action of Council regarding the Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park would be required to be made.

EXECUTIVE SUMMARY:

On May 16 the City Council approved a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park would be required to be made.

On June 6 the City Council considered and advanced a Citizen Petition requesting that Council reconsider their decision regarding the pickleball courts at Bushmaster Park.

Should there be a majority vote to consider the prior action of Council, the next agenda item would be the consideration of the original contract with General Acrylics.

INFORMATION:

See above.

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Amy Hagin, Assistant Parks and Recreation Director
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Consideration and Approval of Contract (Contingent Upon Approval of Previous Item): Approve a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park.

STAFF RECOMMENDED ACTION:

1. Consider and approve a Cooperative Purchase Contract with General Acrylics, Inc., in the total amount of $920,642.42 to design and build eight pickleball courts and overlay existing tennis and basketball courts at Bushmaster Park; and
2. Authorize the City Manager to execute the necessary documents.
3. Provide further staff direction, if desired.

Executive Summary:

The PROSE Division was funded via the BBB-Recreation Fund in fiscal year 2022-2023 for sport courts beginning the journey to develop eight new pickleball courts to Bushmaster Park. The community park is the ideal location as the park has undeveloped acreage, two parking lots, two permanent restrooms, existing dual-striped pickleball courts and sport court lighting. The sport court expert, General Acrylics, Inc., who is an approved Mohave Cooperative vendor for both design and build (construction) of sport courts, and the Flagstaff Pickleball Association were immediately gathered to work with staff on the layout and specifics of the future courts. The design and build of this project includes eight pickleball courts at Bushmaster Park in the amount of ($499,941.51), with additional overlay on the two tennis ($202,207.58) and two basketball courts ($218,493.33) for an overall contract total of $920,642.42.

Financial Impact:

The funding for the pickleball courts and overlay/resurfacing is budgeted in FY2023 the BBB-Recreation Fund in account 055-11-158-3312-5-4433 with this design build Cooperative Purchase Contract.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe and Healthy Community: Promote physical health through providing recreation opportunities, parks, open space and multiple transportation options

Livable Community: Provide amenities and activities that support a healthy lifestyle

Carbon Neutrality Plan

IR-2: Ensure equity, accessibility, and inclusion across all City of Flagstaff Parks and Recreation facilities, helping all members of the Flagstaff community to meet their health and wellness needs

Regional Plan

REC-1.4 Design new or updated public facilities to include parks, open space and/or recreational opportunities where feasible

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

1. Consider and approve a Cooperative Purchase Contract with General Acrylics, Inc. in the total amount of $920,642.42 to design and build eight pickleball courts and overlay on two existing tennis and basketball courts at Bushmaster Park; or
2. Direct staff to conduct a formal procurement for the design and build services.

Background/History:

Over the past few years, PROSE has brought to the community permanent and multi-purposed (dual-striped) pickleball courts including at Bushmaster Park. The development of a funding source for additional permanent pickleball courts was approved in the budget process twelve months ago for the Division. Through BBB-Recreation funds for fiscal year 2022-2023, City staff and the Flagstaff Pickleball Association began the exploratory process for both location and feasibility given other amenities needed when developing sport courts (e.g., parking, access, lighting, restrooms). A portion of the park identity is inclusive of the results from the public engagement on Thorpe Park Annex, bringing to the forefront Bushmaster Park as the ideal location. The proposed additional eight courts would bring the total number of playable courts to sixteen at Bushmaster Park which can accommodate a greater number of players with existing parking lots and restrooms plus existing lighting.

The proposed design and estimate includes best practices for new pickleball courts, including an accessible and open layout with minimal fencing to create an inviting space as well as LED lighting that meets dark skies compliance. In addition to the new eight-court construction is an overlay (six-inch post-tensioned concrete) on top of the existing dual-striped sport courts plus new coatings and striping delivering a much needed improvement and positive impact for the tennis and basketball community at Bushmaster Park. An alternate proposal in the amount of $147,790.66 has been provided for noise abatement of the new eight courts; however, the alternate design changes the layout of the courts to include higher fences which are less inviting and accessible, and is not within budget. Based on existing play onsite, staff does not recommend noise abatement walls to be fiscally responsible when coupled with a lack of complaints received regarding pickleball noise. Staff have received one complaint from someone wanting to play tennis and felt that they could not due to the pickleball play on the dual-striped courts; this was not a noise complaint. This project will alleviate the tension between the different sports by adding dedicated pickleball courts to the park where most pickleball play currently exists.

General Acrylics, Inc. was identified as an expert pickleball court design and build contractor. Purchasing staff researched and found that General Acrylics, Inc. held a cooperative purchase contract through the

Mohave Cooperative. Purchasing staff deemed that Mohave Cooperative was current and appropriate for the procurement and also reviewed and approved the Mohave Cooperative's procurement process. General Acrylics, Inc. was brought into the process early with both City staff and the Flagstaff Pickleball Association so that initial scoping of the project could commence.

Key Considerations:

The outcome for the community is larger than known with delivering pickleball courts and resurfacing aged assets. This project will not only provide a much needed new amenity, but will repair and update the dilapidated tennis and basketball courts. The location also takes into consideration existing amenities of parking supply and permanent restrooms, making it ideal for new courts.

Community Benefits and Considerations:

The health and wellness benefits to an active sport that is inclusive and accessible meet the vision and mission of the PROSE Division and is a key community priority for the City holistically.

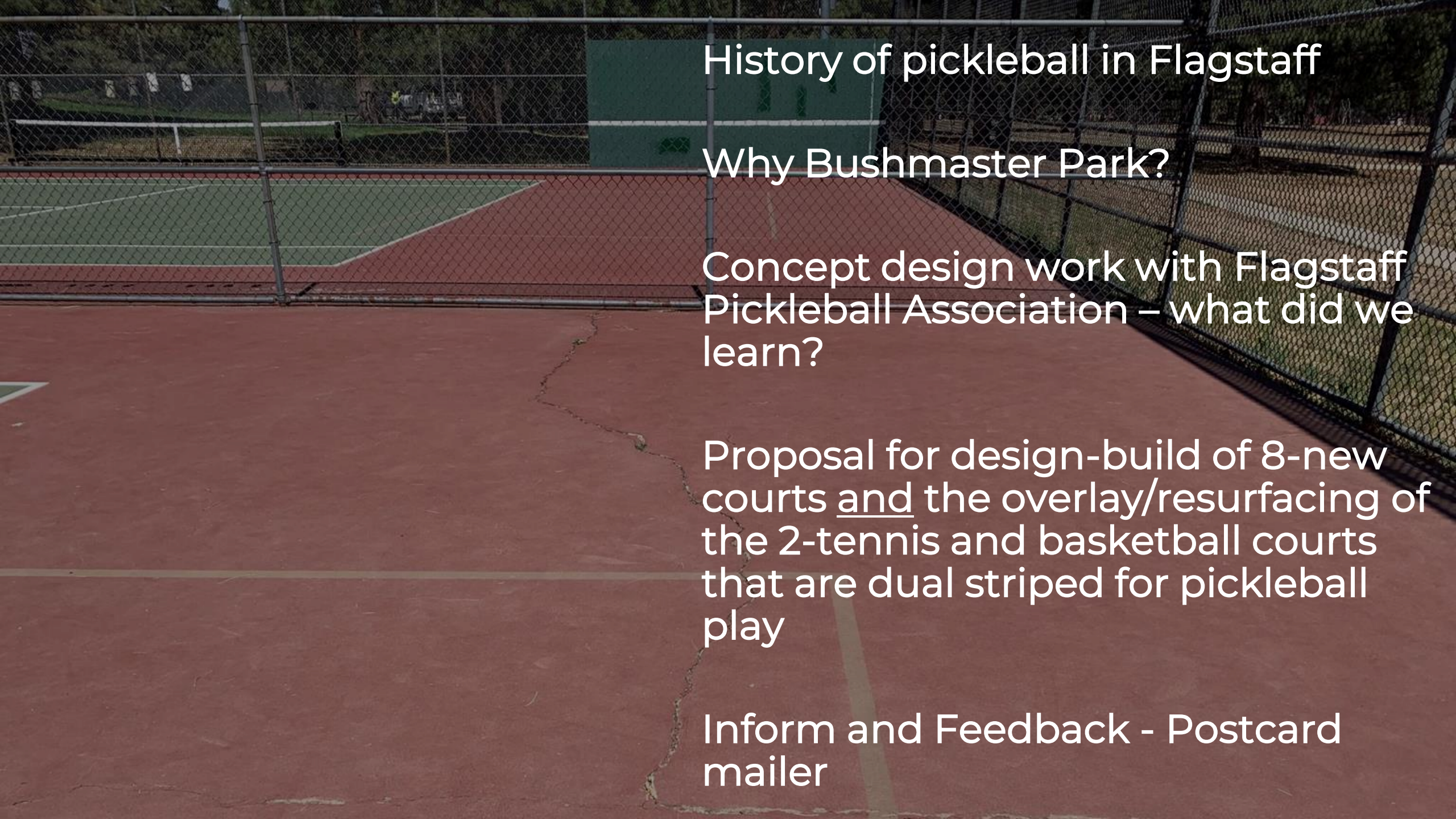
Community Involvement:

A postcard mailer with QR code regarding the upcoming pickleball courts was sent to approximately 80-nearby residences to be informative regarding the future courts. Information can be found at Pickleball at Bushmaster Park | City of Flagstaff Official Website (az.gov).

Attachments:

Presentation
CO-2023-123 General Acrylics Contract
Exhibit A.1
Exhibit A.2
Exhibit A.3
Exhibit B.1
Exhibit B.2
Exhibit B.3


Pickleball Courts at
Bushmaster Park



History of pickleball in Flagstaff

Why Bushmaster Park?

Concept design work with Flagstaff Pickleball Association – what did we learn?

Proposal for design-build of 8-new courts and the overlay/resurfacing of the 2-tennis and basketball courts that are dual striped for pickleball play

Inform and Feedback - Postcard mailer



History in City Parks

August 2019 – dual striped tennis and basketball courts at Bushmaster Park with dedicated hours only, temporary nets

October 2021 – delivered two permanent pickleball courts ILO one tennis court at Ponderosa Park – no lights

Why Bushmaster Park?

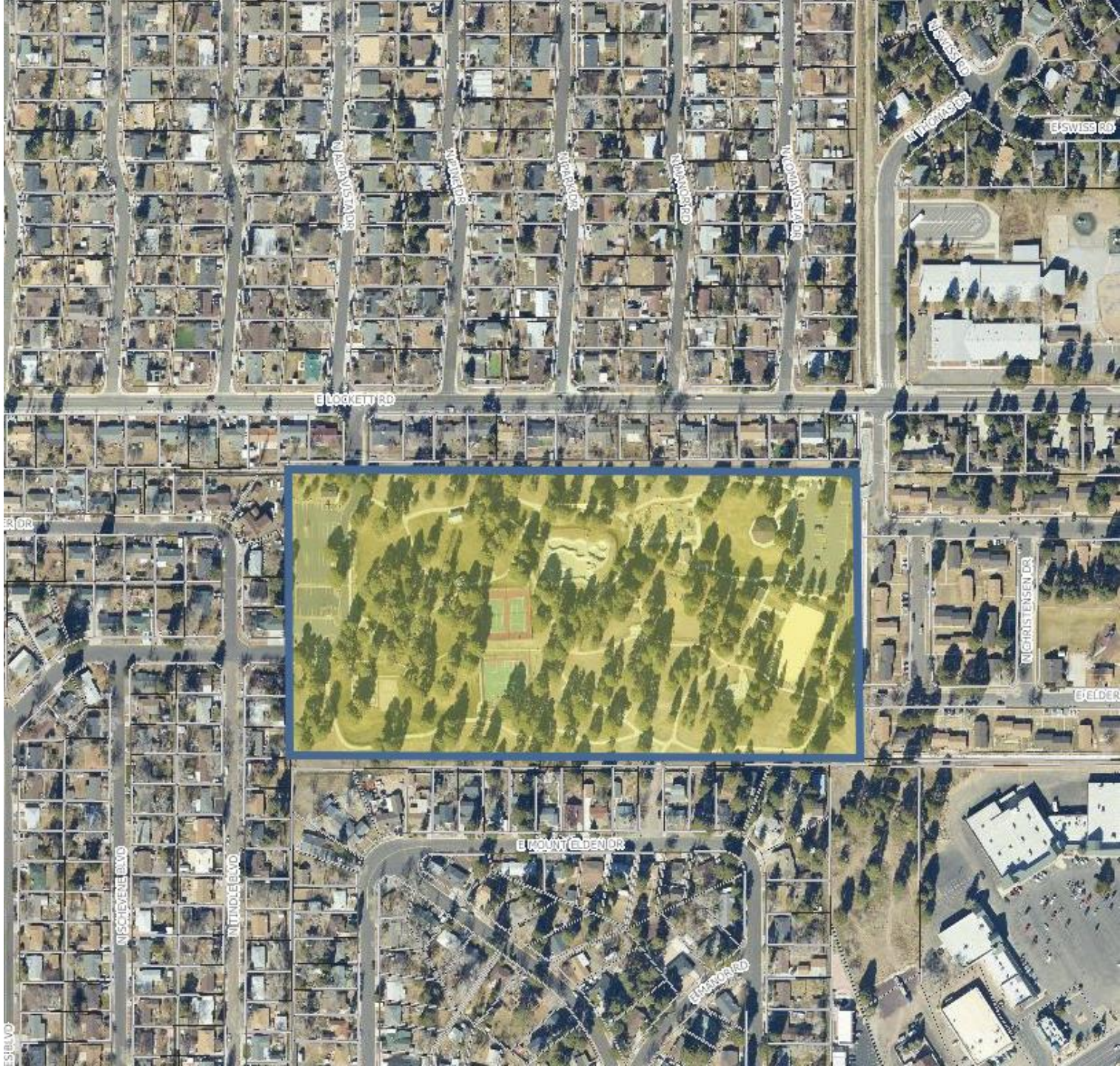
Safe and Healthy Community, Livable Community

Community park in Bushmaster Park (20-acres) classification – ideal location, diverse in nature to serve a broader purpose of recreation, athletics, open spaces

Expansion in 2015 – leaving undeveloped 5 +/- acres

Programming and activation of spaces creates **wanted** behaviors

Parks and Recreation Commission support August 2022, February 2023

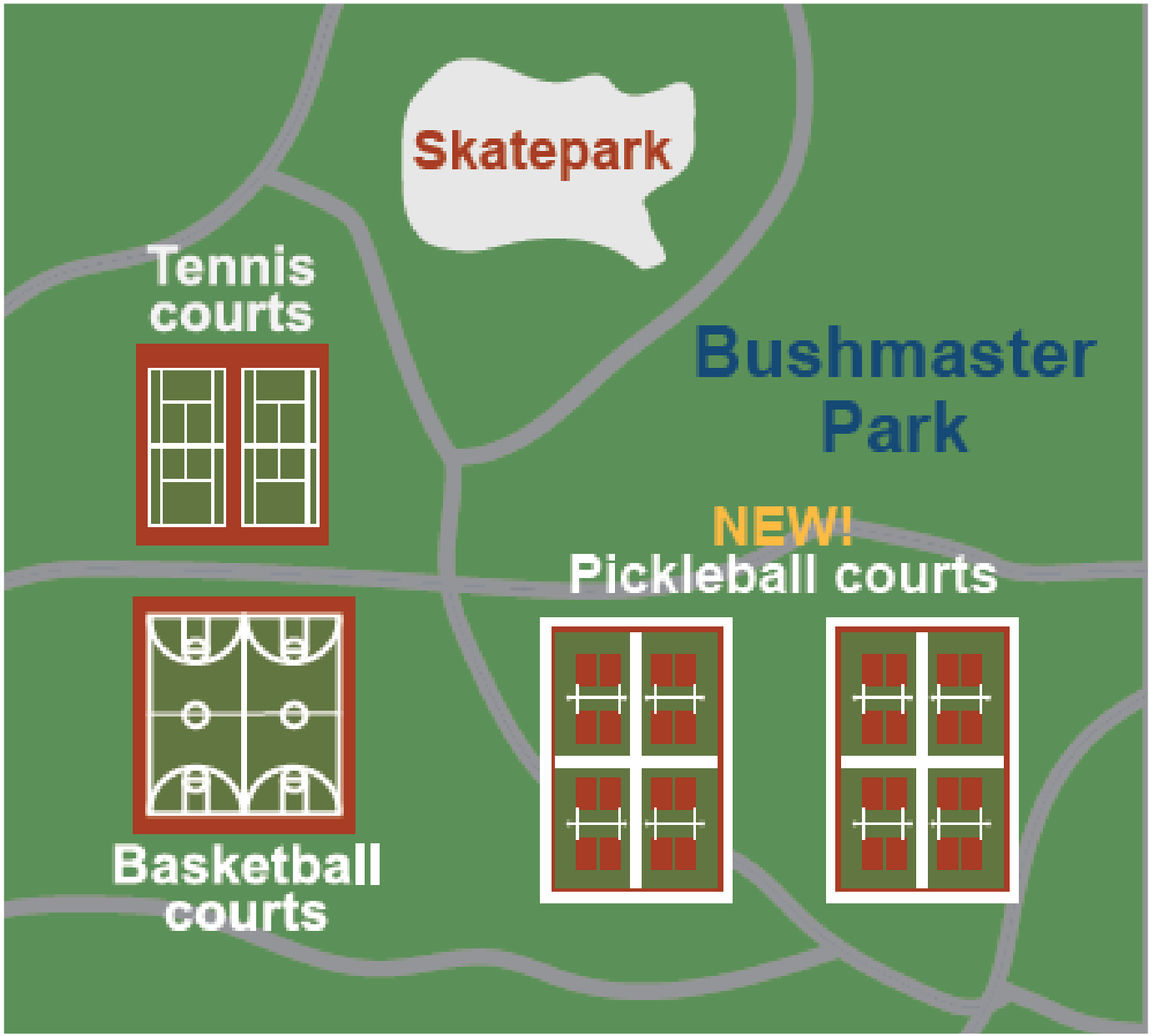




Court Design, Proposal and Funding

Concept Ideas and Partnering with Flagstaff Pickleball Association (FPA)

Collaboratively learned from the community outreach process for Thorpe Park and engaged in conversations regarding best open design, features





4-Pod Court Layout in 84’ x 140’ dimension

4-foot-tall fencing with openings on the sides

Perimeter walkways

LED low profile lighting





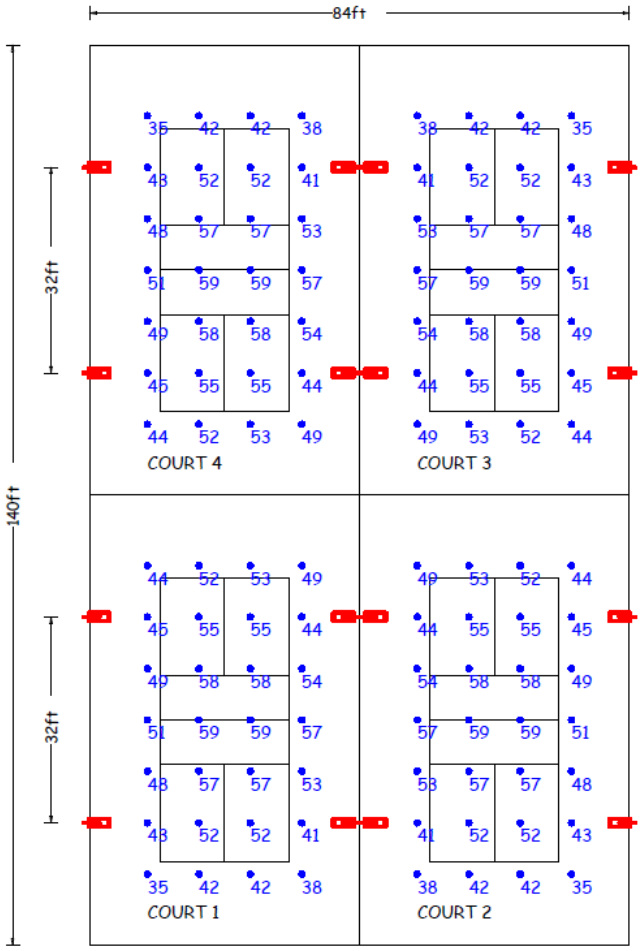
4-Pod Layout

- Benefits
  - Social aspect, open feel
  - Construction efficiency
  - Low fencing - inviting
  - Perimeter walkway opportunity - accessible

LSI's ZONE™ LED sports light features a sleek low-profile design and high-performance LEDs paired with precise silicone optics to produce superior levels of illumination and uniformity. Compared with typical HID court lighting systems, the energy load is reduced by up to 75%.

Significant improvement over existing lighting at Bushmaster Park

Please note the LED lighting is only on the new 8-courts and meets Dark Skies compliancy







The proposal amount is **$920,643**

Design-build partner is General Acrylics, Inc.

Funding source is BBB-Rec funds – shift for PROSE!

Opportunity to pick the color scheme

Include the BBB logo, PROSE logos


Inform
Feedback

Postcard mailer to 78 residences that are directly adjacent to the Community Park to inform

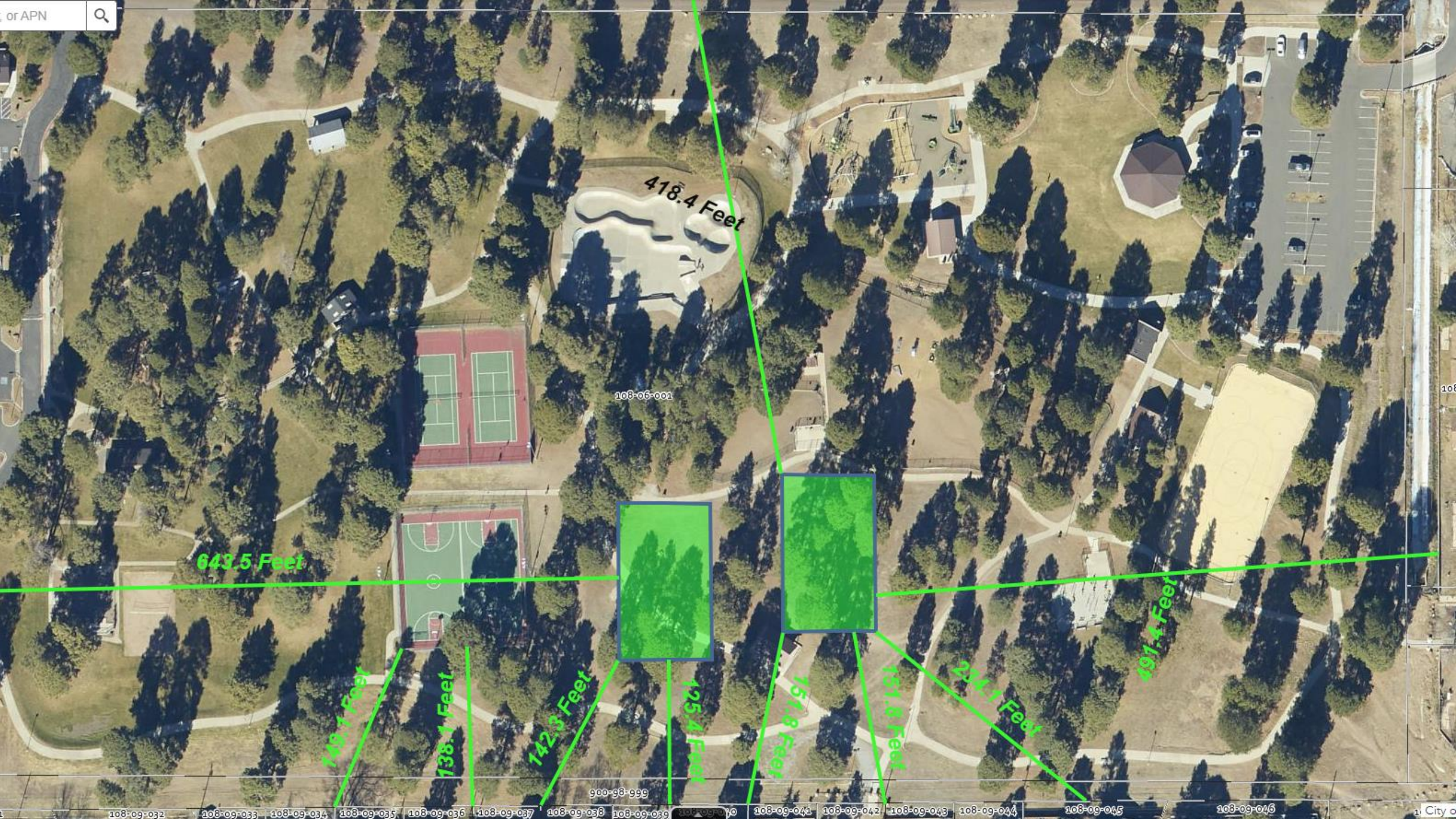


Feedback from some of the residences

Direct comments:

“Pickleball courts?--- and they happen to be "nestling" directly behind my home”

“I am very much opposed to the City’s proposal to install pickleball courts in Bushmaster Park. I live on the southern border of Bushmaster, a fair distance from the existing tennis courts, and the noise from pickleball is an incessant irritation, from early spring through fall and until the snow falls in winter. Now I see that you plan to build dedicated pickleball courts almost directly behind my home, complete with LED lighting, which will ensure unabated noise from early morning well into the night”


418.4 Feet
643.5 Feet
491.4 Feet
204.1 Feet
151.8 Feet
151.8 Feet
125.4 Feet
142.3 Feet
138.1 Feet
149.1 Feet
108-06-001
108-09-032
108-09-033
108-09-034
108-09-035
108-09-036
108-09-037
108-09-038
108-09-039
108-09-041
108-09-042
108-09-043
108-09-044
108-09-045
108-09-046

In observation of other communities in the nation including private subdivision development in the County, a proposal for acoustical walls/barrier for **$147,791** was obtained. This proposal amount is not within the fund budget.

The noise abatement walls drastically changes the fencing creating the need for 12-foot-tall fencing around each pod. It is professionally suggested that the acoustical walls reduce potential sound decibel at a maximum of 30% (pending specifics) and tend to bounce the sound backwards outside of the perimeter of the court

Staff suggestion is to go with project as proposed with no acoustical walls



Questions and Comments

COOPERATIVE PURCHASE CONTRACT
Contract No. CO-2023-123

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 2023 by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and General Acrylics, Inc., an Arizona corporation ("Contractor").

RECITALS:

A. Contractor has a Government Purchasing Cooperative Contract 20N-GA13-0202 with Mohave Cooperative to supply materials and/or services ("Agency Contract"), which was awarded through a competitive and open procurement process;

B. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

   City of Flagstaff Bushmaster Park Sports Courts: New, Repair and Maintenance

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Scope of Work, *Exhibit A* and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided shall be **nine hundred twenty thousand six hundred forty-two and forty-two hundredths ($920,642.42), in addition to taxes and other charges**; made in accordance with the price list and terms set forth in the Agency Contract. Any price adjustment must be approved by mutual written consent of the parties through a formal amendment. The City Manager or his/her designee (the Purchasing Director) may approve an amendment if the amendment price increase is less than $50,000; otherwise, City Council approval is required.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in *Exhibit B*, attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

8. Notice: Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:
Amy Hagin
Assistant Parks & Recreation Director
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
ahagin@flagstaffaz.gov
Phone: 928-213-2164

To Contractor:
Jonnie Deremo
General Acrylics, Inc.
22222 N. 22nd Avenue
Phoenix, AZ 85027
Phone: 602-569-9377 x 102

With a copy to:
Liane Garcia
Buyer
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
lgarcia@flagstaffaz.gov
Phone: 928-213-2279

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CONTRACTOR:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

EXHIBIT A
SCOPE OF WORK
(Attached)

1. Bushmaster Park – City of Flagstaff Basketball Overlay for (2) Basketball Courts- 1 page
2. Bushmaster Park – City of Flagstaff Tennis Courts Overlay for (2) Tennis Courts – 1 page
3. Bushmaster Park – City of Flagstaff Construct (2) Pickleball Courts – 1 page

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EXHIBIT B
AGENCY CONTRACT
(Attached)

1. Mohave Cooperative General Acrylics, Inc Response to Solicitation – 126 pages
2. Mohave Cooperative Awarded Documents to General Acrylics, Inc. – 13 pages.
3. Mohave Cooperative Extensions & Amendments to General Acrylics, Inc. – 21 pages.

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PROPOSAL SUBMITTED TO:

Amy Hagin
City of Flagstaff- Parks Manager
Ahagin@flagstaffaz.gov
928-326-1559

Date: 3/18/23

MOHAVE EDUCATIONAL SERVICES UNIT PRICE PROPOSAL

Job site: *Bushmaster Park - City Flagstaff*
Per your request General Acrylics, Inc. respectfully submits the following proposal to supply all materials, equipment and labor to perform the following work per Mohave Educational Services Contract # 20N-GAI3-0202: Construct 110' x 120' PT Overlay for (2) Basketball Courts

LINE ITEMS	UNITS	MES DISCOUNTED PRICES	PER UNIT	TOTAL PER LINE ITEM
DESIGN / ENGINEERING SERVICES				
Engineer Stamped Drawings for Post-Tensioned Concrete slabs	13200	$ 0.14	SF	$ 1,848.00
EQUIPMENT: EXCAVATION, DEMOLITION, AND INSTALLATION				
4 hour Minimum will apply to all of the listed equipment below				
Grade Tractor	12	$ 129.78	HOUR	$ 1,557.36
Haul truck (1 trucks x 8 hours)	8	$ 149.25	HOUR	$ 1,194.00
Dumpster (30 yrd Roll-off)	3	$ 1,116.77	EA	$ 3,350.31
Rental Fence One Month-Set up & delivery 1200 lf Within 60 mile radius of Phoenix (approx LF for 2 tennis) x 4 months	4	$ 2,335.18	LS	$ 9,340.72
OVERLAY CONCRETE SLAB (ZONE ELEVEN)				
OVERLAY Post-Tensioned Concrete Slab 7,201 - 14,400 sf	13200	$ 7.64	SF	$ 100,848.00
CONCRETE SLAB (ZONE ELEVEN)				
Concrete 4000 psi Per cubic yard - Material only (cost difference from 3000psi to 4000psi) 160.85 - 156.89=3.96	257	$ 3.96	CY	$ 1,017.72
LODGING, PER DIEM, MILAGE, MOBILIZATION (Concrete/form CREW)				
Lodging per man - per night (3 nights x 5 men) (march 1 - april 30)	15	$ 119.00	NIGHT	$ 1,785.00
Per diem - per man - per day (4 days x 5 men)	20	$ 40.00	DAY	$ 800.00
Per vehicle - per mile - to and from project (2 vehicles x 2 trips at 262 miles round trip)	1048	$ 0.445	MILE	$ 466.36
LODGING, PER DIEM, MILAGE, MOBILIZATION (Superintendent)				
Lodging per man - per night (10 nights x 1 men)	10	$ 119.00	NIGHT	$ 1,190.00
Per diem - per man - per day (11 days x 1men)	11	$ 40.00	DAY	$ 440.00
Per vehicle - per mile - to and from project (1 vehicles x 5 trips at 262 miles round trip)	1310	$ 0.445	MILE	$ 582.95
LODGING, PER DIEM, MILAGE, MOBILIZATION (General Labor to Demo and Reinstall Basketball Goals)				
Lodging per man - per night (4 nights x 3 men)	12	$ 119.00	NIGHT	$ 1,428.00
Per diem - per man - per day (5 days x 3 men)	15	$ 40.00	DAY	$ 600.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
MISCELLANEOUS SERVICES (Indicate Minimums, if they apply)				
Equipment Operator, per man per hour	40	$ 85.42	HOUR	$ 3,416.80
On Site Superintendent, per man per hour (1 Man x 24 days x 8 hour days)	192	$ 75.09	HOUR	$ 14,417.28
Rental Fence One Month - Set up & delivery 500 lf (approx LF for site x 2 x 3 months)	6	$ 1,043.01	LS	$ 6,258.06
General Labor, per man per hour(3 men x 5 days x 8 hour days) Dig footers for new equipment	120	$ 32.27	HOUR	$ 3,872.40
TRAVEL / DRIVE RATE				
Equipment Operator, per man per hour(2 Men x 1 Trip X 6 hours round trip) grading north hill and demo/grading sidewalk	12	$ 75.16	HOUR	$ 901.92
On Site Superintendent, per man per hour(1 Man x 5 Trips X 6 hours round trip)	30	$ 75.09	HOUR	$ 2,252.70
Surfacing Foreman, per man per hour (1 Man x 2 TripX 6 hours round trip)	12	$ 37.21	HOUR	$ 446.52
Surfacing Journeyman, per man per hour (1 Man x 2 Trip X 6 hours round trip)	12	$ 31.14	HOUR	$ 373.68
Fencing Foreman, per man per hour(1 Man x 2 Trips X 6 hours round trip)	12	$ 38.48	HOUR	$ 461.76
Fencing Journeyman, per man per hour (3 Men x 2 Trips X 6 hours round trip)	36	$ 28.56	HOUR	$ 1,028.16
Concrete Finisher, per man per hour(1 Man x 2 Trips X 6 hours round trip)	12	$ 46.67	HOUR	$ 560.04
Concrete Journeyman, per man per hour(4 Men x 2 Trip X 6 hours round trip)	48	$ 41.67	HOUR	$ 2,000.16
General Labor, per man per hour (3 men x 2 trips x 6 hours round trip)	36	$ 29.04	HOUR	$ 1,045.44
PERIMETER FENCING				
Cut & Knuckle Existing chain-link fencing mesh (any height)	460	$ 4.63	LF	$ 2,129.80
LODGING, PER DIEM, MILAGE, MOBILIZATION (Fencing CREW)				
Lodging per man - per night (13 nights x 3 men) March 1 - April 30 pricing	39	$ 119.00	NIGHT	$ 4,641.00
Per diem - per man - per day (14 days x 3 men)	42	$ 40.00	DAY	$ 1,680.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
COURT SURFACING - INSTALLING & REMOVAL (Indicate Minimums, if they apply)				
Tennis court urethane/acrylic surfacing, new concrete slab 12,001 or more sf	13200	$ 1.33	SF	$ 17,556.00
Cleaning and preparing existing concrete or asphalt court surface, 7,201 - 14,400 sf	13200	$ 0.08	SF	$ 1,056.00
LODGING, PER DIEM, MILAGE, MOBILIZATION (Court SURFACING CREW)				
Lodging per man - per night (5 nights x 2 men) May 1 - Sept 30 pricing	17	$ 146.00	NIGHT	$ 2,482.00
Per diem - per man - per day (6 days x 2 men)	18	$ 40.00	DAY	$ 720.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
COURT STRIPING - INSTALLATION NOTE: USE REMOVAL PRICING FROM REMOVAL PRICING ABOVE (Indicate Minimums, if they apply)				
Striping full Basketball courts with 3-point line, 1-2 courts	2	$ 722.00	EA	$ 1,444.00
Striping Pickle ball courts, 3-4 courts	4	$ 235.00	EA	$ 940.00
FIRST TEAM FIXED BASKETBALL SYSTEMS				
Brute Max 5-9/16" od galvanized pole w/ 36 x 54 Aluminum Fan shape backboard w/ HD double rim & Nylon net	4	$ 1,668.00	EA	$ 6,672.00
			SUBTOTAL:	**$ 203,503.68**
			BOND	**$ 2,684.93**
			TAX RATE: 5.9677%	**$ 12,304.72**
			TOTAL:	**$ 218,493.33**

UPON APPROVAL BY MOHAVE EDUCATIONAL SERVICES
PLEASE ISSUE PURCHASE ORDER TO GENERAL ACRYLICS, INC.

This project May require monthly progress billings

Submitted By:

GENERAL ACRYLICS, INC.
Justin Fudge
Justin Fudge
Account Executive
AZ License # 077085

PROPOSAL SUBMITTED TO:

Amy Hagin
City of Flagstaff- Parks Manager
Ahagin@flagstaffaz.gov
928-326-1559

Date: 3/18/23

MOHAVE EDUCATIONAL SERVICES UNIT PRICE PROPOSAL

Job site: *Bushmaster Park - City Flagstaff*
Per your request General Acrylics, Inc. respectfully submits the following proposal to supply all materials, equipment and labor to perform the following work per Mohave Educational Services Contract # 20N-GAI3-0202: Construct 110' x 120' PT Overlay for (2) Tennis Courts

LINE ITEMS	UNITS	MES DISCOUNTED PRICES	PER UNIT	TOTAL PER LINE ITEM
DESIGN / ENGINEERING SERVICES				
Engineer Stamped Drawings for Post-Tensioned Concrete slabs	13200	$ 0.14	SF	$ 1,848.00
EQUIPMENT: EXCAVATION, DEMOLITION, AND INSTALLATION				
4 hour Minimum will apply to all of the listed equipment below				
Dumpster (30 yrd Roll-off)	3	$ 1,116.77	EA	$ 3,350.31
Rental Fence One Month-Set up & delivery 1200 lf Within 60 mile radius of Phoenix (approx LF for 2 tennis) x 4 months	4	$ 2,335.18	LS	$ 9,340.72
OVERLAY CONCRETE SLAB (ZONE ELEVEN)				
OVERLAY Post-Tensioned Concrete Slab 7,201 - 14,400 sf	13200	$ 7.64	SF	$ 100,848.00
CONCRETE SLAB (ZONE ELEVEN)				
Concrete 4000 psi Per cubic yard - Material only (cost difference from 3000psi to 4000psi) 160.85 - 156.89=3.96	257	$ 3.96	CY	$ 1,017.72
LODGING, PER DIEM, MILAGE, MOBILIZATION (Concrete/form CREW)				
Lodging per man - per night (3 nights x 5 men) (march 1 - april 30)	15	$ 119.00	NIGHT	$ 1,785.00
Per diem - per man - per day (4 days x 5 men)	20	$ 40.00	DAY	$ 800.00
Per vehicle - per mile - to and from project (2 vehicles x 2 trips at 262 miles round trip)	1048	$ 0.445	MILE	$ 466.36
LODGING, PER DIEM, MILAGE, MOBILIZATION (Superintendent)				
Lodging per man - per night (10 nights x 1 men)	10	$ 119.00	NIGHT	$ 1,190.00
Per diem - per man - per day (11 days x 1men)	11	$ 40.00	DAY	$ 440.00
Per vehicle - per mile - to and from project (1 vehicles x 5 trips at 262 miles round trip)	1310	$ 0.445	MILE	$ 582.95
LODGING, PER DIEM, MILAGE, MOBILIZATION (General Labor to Demo and Reinstall Net Post Footings)				
Lodging per man - per night (3 nights x 3 men)	3	$ 119.00	NIGHT	$ 357.00
Per diem - per man - per day (4 days x 3 men)	12	$ 40.00	DAY	$ 480.00
Per vehicle - per mile - to and from project (1 vehicles x 1trips at 262 miles round trip)	262	$ 0.445	MILE	$ 116.59
MISCELLANEOUS SERVICES (Indicate Minimums, if they apply)				
On Site Superintendent, per man per hour (1 Man x 24 days x 8 hour days)	192	$ 75.09	HOUR	$ 14,417.28
Rental Fence One Month - Set up & delivery 500 lf (approx LF for site x 2 x 3 months)	6	$ 1,043.01	LS	$ 6,258.06
General Labor, per man per hour(3 men x 4 days x 8 hour days) Dig footers for new anchors and net posts	96	$ 32.27	HOUR	$ 3,097.92
TRAVEL / DRIVE RATE				
Equipment Operator, per man per hour(2 Men x 1 Trip X 6 hours round trip) demo/grading sidewalk	12	$ 75.16	HOUR	$ 901.92
On Site Superintendent, per man per hour(1 Man x 5 Trips X 6 hours round trip)	30	$ 75.09	HOUR	$ 2,252.70
Surfacing Foreman, per man per hour (1 Man x 2 TripX 6 hours round trip)	12	$ 37.21	HOUR	$ 446.52
Surfacing Journeyman, per man per hour (1 Man x 2 Trip X 6 hours round trip)	12	$ 31.14	HOUR	$ 373.68
Fencing Foreman, per man per hour(1 Man x 2 Trips X 6 hours round trip)	12	$ 38.48	HOUR	$ 461.76
Fencing Journeyman, per man per hour (3 Men x 2 Trips X 6 hours round trip)	36	$ 28.56	HOUR	$ 1,028.16
Concrete Finisher, per man per hour(1 Man x 2 Trips X 6 hours round trip)	12	$ 46.67	HOUR	$ 560.04
Concrete Journeyman, per man per hour(4 Men x 2 Trip X 6 hours round trip)	48	$ 41.67	HOUR	$ 2,000.16
General Labor, per man per hour (3 men x 1 trips x 6 hours round trip)	18	$ 29.04	HOUR	$ 522.72
PERIMETER FENCING				
Cut & Knuckle Existing chain-link fencing mesh (any height)	460	$ 4.63	LF	$ 2,129.80
LODGING, PER DIEM, MILAGE, MOBILIZATION (Fencing CREW)				
Lodging per man - per night (13 nights x 3 men) March 1 - April 30 pricing	39	$ 119.00	NIGHT	$ 4,641.00
Per diem - per man - per day (14 days x 3 men)	42	$ 40.00	DAY	$ 1,680.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
COURT SURFACING - INSTALLING & REMOVAL (Indicate Minimums, if they apply)				
Tennis court urethane/acrylic surfacing, new concrete slab 12,001 or more sf	13200	$ 1.33	SF	$ 17,556.00
Cleaning and preparing existing concrete or asphalt court surface, 7,201 - 14,400 sf	13200	$ 0.08	SF	$ 1,056.00
LODGING, PER DIEM, MILAGE, MOBILIZATION (Court SURFACING CREW)				
Lodging per man - per night (7 nights x 2 men) May 1 - Sept 30 pricing	14	$ 146.00	NIGHT	$ 2,044.00
Per diem - per man - per day (8 days x 2 men)	16	$ 40.00	DAY	$ 640.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
COURT STRIPING - INSTALLATION NOTE: USE REMOVAL PRICING FROM REMOVAL PRICING ABOVE (Indicate Minimums, if they apply)				
Striping Tennis courts, 1-2 courts	2	$ 485.00	EA	$ 970.00
Striping Pickle ball courts, 3-4 courts	4	$ 235.00	EA	$ 940.00
DOUGLAS TENNIS NETS & ACCESSORIES				
TN-36 Tennis Net, 3.5mm Tapered with 2-Ply Vinyl Headband	2	$ 188.10	EA	$ 376.20
Deluxe ACS Adjustable Center Strap	2	$ 10.80	EA	$ 21.60
Center Pipe Anchor	2	$ 12.60	EA	$ 25.20
DOUGLAS TENNIS POSTS & ACCESSORIES				
Premier XS Tennis Posts, Green (2-7/8" OD)	2	$ 404.10	Set	$ 808.20
			SUBTOTAL:	**$ 188,297.93**
			BOND	**$ 2,522.08**
			TAX RATE: 5.9677%	**$ 11,387.57**
			TOTAL:	**$ 202,207.58**

UPON APPROVAL BY MOHAVE EDUCATIONAL SERVICES
PLEASE ISSUE PURCHASE ORDER TO GENERAL ACRYLICS, INC.

This project May require monthly progress billings

Submitted By:

GENERAL ACRYLICS, INC.
Justin Fudge
Justin Fudge
Account Executive
AZ License # 077085

PROPOSAL SUBMITTED TO:

Amy Hagin
City of Flagstaff- Parks Manager
Ahagin@flagstaffaz.gov
928-326-1559

Date: 10/18/22

MOHAVE EDUCATIONAL SERVICES UNIT PRICE PROPOSAL

Job site: *Bushmaster Park - City Flagstaff*
Per your request General Acrylics, Inc. respectfully submits the following proposal to supply all materials, equipment and labor to perform the following work per Mohave Educational Services Contract # 20N-GAI3-0202: Construct (2) 84' x 140' Slabs - 8 Pickleball Courts

LINE ITEMS	UNITS	MES DISCOUNTED PRICES	PER UNIT	TOTAL PER LINE ITEM
DESIGN / ENGINEERING SERVICES				
Engineer Stamped Drawings for Post-Tensioned Concrete slabs	23520	$ 0.14	SF	$ 3,292.80
EQUIPMENT: EXCAVATION, DEMOLITION, AND INSTALLATION				
4 hour Minimum will apply to all of the listed equipment below				
Grade Tractor	80	$ 129.78	HOUR	$ 10,382.40
Skip Loader	40	$ 129.78	HOUR	$ 5,191.20
Haul truck (2 trucks x 40 hr week)	80	$ 149.25	HOUR	$ 11,940.00
Dumpster (30 yrd Roll-off)	3	$ 1,116.77	EA	$ 3,350.31
Rental Fence One Month-Set up & delivery 1200 lf Within 60 mile radius of Phoenix (approx LF for 2 tennis) x 4 months	4	$ 2,335.18	LS	$ 9,340.72
CONCRETE SLAB (ZONE ELEVEN)				
New Post-Tensioned Concrete Slab 14,401 - 36,000 sf	23520	$ 8.65	SF	$ 203,448.00
Concrete 4000 psi Per cubic yard - Material only (cost difference from 3000psi to 4000psi) 160.85 - 156.89=3.96	465	$ 3.96	CY	$ 1,841.40
LODGING, PER DIEM, MILAGE, MOBILIZATION (Concrete/form CREW)				
Lodging per man - per night (4 nights x 5 men) (march 1 - april 30)	20	$ 119.00	NIGHT	$ 2,380.00
Per diem - per man - per day (5 days x 5 men)	25	$ 40.00	DAY	$ 1,000.00
Per vehicle - per mile - to and from project (2 vehicles x 2 trips at 262 miles round trip)	1048	$ 0.445	MILE	$ 466.36
LODGING, PER DIEM, MILAGE, MOBILIZATION (Superintendent)				
Lodging per man - per night (20 nights x 1 men)	20	$ 119.00	NIGHT	$ 2,380.00
Per diem - per man - per day (24 days x 1men)	24	$ 40.00	DAY	$ 960.00
Per vehicle - per mile - to and from project (1 vehicles x 6 trips at 262 miles round trip)	1572	$ 0.445	MILE	$ 699.54
LODGING, PER DIEM, MILAGE, MOBILIZATION (General Labor)				
Lodging per man - per night (4 nights x 2 men)	8	$ 119.00	NIGHT	$ 952.00
Per diem - per man - per day (5 days x 2men)	10	$ 40.00	DAY	$ 400.00
Per vehicle - per mile - to and from project (1 vehicles x 1 trips at 262 miles round trip)	262	$ 0.445	MILE	$ 116.59
MISCELLANEOUS SERVICES (Indicate Minimums, if they apply)				
Equipment Operator, per man per hour	40	$ 85.42	HOUR	$ 3,416.80
On Site Superintendent, per man per hour (1 Man x 24 days x 8 hour days)	192	$ 75.09	HOUR	$ 14,417.28
Rental Fence One Month - Set up & delivery 500 lf (approx LF for site x 2 x 3 months)	6	$ 1,043.01	LS	$ 6,258.06
General Labor, per man per hour(2 men x 5 days x 8 hour days) Dig footers for new equipment	80	$ 32.27	HOUR	$ 2,581.60
2 Man Crew, with truck & equipment, per hour (digging light pole footings)	24	$ 200.00	HOUR	$ 4,800.00
TRAVEL / DRIVE RATE				
Equipment Operator, per man per hour(3 Man x 1 Trip X 6 hours round trip)	6	$ 75.16	HOUR	$ 450.96
On Site Superintendent, per man per hour(1 Man x 5 Trips X 6 hours round trip)	30	$ 75.09	HOUR	$ 2,252.70
Surfacing Foreman, per man per hour (1 Man x 2 TripX 6 hours round trip)	12	$ 37.21	HOUR	$ 446.52
Surfacing Journeyman, per man per hour (1 Man x 2 Trip X 6 hours round trip)	12	$ 31.14	HOUR	$ 373.68
Fencing Foreman, per man per hour(1 Man x 2 Trips X 6 hours round trip)	12	$ 38.48	HOUR	$ 461.76
Fencing Journeyman, per man per hour (3 Men x 2 Trips X 6 hours round trip)	36	$ 28.56	HOUR	$ 1,028.16
Concrete Finisher, per man per hour(1 Man x 2 Trips X 6 hours round trip)	12	$ 46.67	HOUR	$ 560.04
Concrete Journeyman, per man per hour(4 Men x 2 Trip X 6 hours round trip)	48	$ 41.67	HOUR	$ 2,000.16
General Labor, per man per hour (2 men x 1 trip x 6 hours round trip)	12	$ 29.04	HOUR	$ 348.48
PERIMETER FENCING				
Install 4' chain link fencing, with 9 Gauge Galvanized mesh & Frame work, (includes line posts, end posts, fence fabric) Divider	830	$ 33.43	LF	$ 27,746.90
Add Mid or Bottom Rail (Galvanized or Painted)	1248	$ 5.25	LF	$ 6,552.00
LODGING, PER DIEM, MILAGE, MOBILIZATION (Fencing CREW)				
Lodging per man - per night (13 nights x 3 men) March 1 - April 30 pricing	39	$ 119.00	NIGHT	$ 4,641.00
Per diem - per man - per day (14 days x 3 men)	42	$ 40.00	DAY	$ 1,680.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
ELECTRICAL FIXTURE ITEMS / COURT LIGHTING				
LIFT For over 20' high fixture	5	$ 678.47	DAY	$ 3,392.35
Zone Light Fixture (60,000 lumen) - ONLY	32	$ 1,134.89	EA	$ 36,316.48
Pole Top Fitter (attache fixture to pole) (single, twin or quad) - ONLY	24	$ 111.02	EA	$ 2,664.48
16' - 22' 4" Round Pole ONLY dirrect bury or base mount	24	$ 658.73	EA	$ 15,809.52
Concrete base INSTALLED	24	$ 904.32	EA	$ 21,703.68
2" Electrical Conduit and Trenching For Future Lighting per LF 60 LF MINIMUM (running conduit from Christie Box and between courts)	200	$ 14.81	LF	$ 2,962.00
LODGING, PER DIEM, MILAGE, MOBILIZATION (Electrical CREW)				
Lodging per man - per night (6 nights x 3 men) March 1 - April 30	18	$ 119.00	NIGHT	$ 2,142.00
Per diem - per man - per day (7 days x 3 men)	21	$ 40.00	DAY	$ 840.00
Per vehicle - per mile - to and from project (1 vehicles x 1 trips at 262 miles round trip)	262	$ 0.445	MILE	$ 116.59
COURT SURFACING - INSTALLING & REMOVAL (Indicate Minimums, if they apply)				
Tennis court urethane/acrylic surfacing, new concrete slab 12,001 or more sf	23520	$ 1.33	SF	$ 31,281.60
Cleaning and preparing existing concrete or asphalt court surface, 14,401 - 36,000 sf	23520	$ 0.06	SF	$ 1,411.20
LODGING, PER DIEM, MILAGE, MOBILIZATION (Court SURFACING CREW)				
Lodging per man - per night (5 nights x 2 men) May 1 - Sept 30 pricing	17	$ 146.00	NIGHT	$ 2,482.00
Per diem - per man - per day (6 days x 2 men)	18	$ 40.00	DAY	$ 720.00
Per vehicle - per mile - to and from project (1 vehicles x 2 trips at 262 miles round trip)	524	$ 0.445	MILE	$ 233.18
COURT STRIPING - INSTALLATION NOTE: USE REMOVAL PRICING FROM REMOVAL PRICING ABOVE (Indicate Minimums, if they apply)				
Striping Pickle ball courts, 5 or more courts	8	$ 203.00	EA	$ 1,624.00
DOUGLAS PICKLEBALL/QUICKSTART TENNIS NETS & POSTS				
JTN-30 Quick Start/Pickle ball Tennis Net -36" x 21'9"	8	$ 116.10	EA	$ 928.80
Premier™ RD-36 Quick Start/Pickle ball Tennis Posts 3" OD, Black, 36" Above Ground	8	$ 359.10	Set	$ 2,872.80
GS-24RD PVC Ground Sleeves 24" Long for 2-7/8" OD Posts	8	$ 26.10	Pair	$ 208.80
Deluxe ACS Adjustable Center Strap	8	$ 10.80	EA	$ 86.40
Center Pipe Anchor	8	$ 12.60	EA	$ 100.80
			SUBTOTAL:	**$ 466,287.28**
			BOND	**$ 5,499.42**
			TAX RATE:	**5.9677%** **$ 28,154.81**
			TOTAL:	**$ 499,941.51**

UPON APPROVAL BY MOHAVE EDUCATIONAL SERVICES
PLEASE ISSUE PURCHASE ORDER TO GENERAL ACRYLICS, INC.

This project May require monthly progress billings

Submitted By:

GENERAL ACRYLICS, INC.
Justin Fudge
Justin Fudge
Account Executive
AZ License # 077085

MOHAVE COOPERATIVE

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4/5/18 EH

General Acrylics
Since 1958
TRACKS, TENNIS COURTS AND SYNTHETIC TURF
Licensed/Bonded

Mohave Educational Services Cooperative, Inc.

IFB 20N-1112

Bid Date & Time:

November 12, 2020 @ 3:00 pm (local Arizona Time)

Submitted By:

General Acrylics, Inc.
22222 North 22nd Avenue
Phoenix, Arizona 85027

AMERICAN SPORTS BUILDERS ASSOCIATION

1

- Bid and Acceptance
- Terms and Conditions
- Scope of Work
- Specification Documents
- Bid Bond
- Bonding Capacity
- Anti-Lobbying Certificate
- USDA Form AD-1048

2

- Primary Vendor Information

3

- Pricing Information

4

- Supporting Contract Document

5

- Additional Information

TAB 1

1a

CONFIDENTIAL/PROPRIETARY SUBMITTALS

Confidential/Proprietary Submittals (mark one):

____X____ No confidential/proprietary materials have been included with this bid.

_____ Confidential/proprietary materials have been included with this bid. Bidder shall identify below any portion of their bid deemed confidential or proprietary (see General Terms and Conditions 7. Confidential Information).

Note that any documentation marked as confidential or proprietary must be identified below. Any confidential or proprietary information NOT identified as instructed shall be deemed as non-confidential or non-proprietary.

The confidential/proprietary information identified below does not guarantee that disclosure will be prevented but that the item(s) will be subject to review by the bidder and Mohave prior to any public disclosure. Requests to deem the entire bid or pricing as confidential shall not be considered.

General Acrylics, Inc.
Firm

PRESIDENT
Authorized Signature

1b

1c

General Terms and Conditions
(Place after Tab 1c)

Some General Terms and Conditions specify placement of information in tabs other than Tab 1c as noted in the title above. Pay close attention to placement information (identified in bold text) as indicated in select General Terms and Conditions.

1. ADVERTISING

Bidder shall not advertise or publish information concerning this solicitation prior to an award being announced by Mohave. After award, contract vendor(s) may advertise the availability of products, materials, processes and services to members. Any promotional marketing materials using the Mohave logo shall be approved by a Mohave Contract Specialist in advance.

2. AVAILABILITY OF FUNDS

Member fund availability is unknown to Mohave at the time this solicitation was issued. Use of any contract awarded by Mohave will be conditioned upon the availability of member funds.

3. BID OPENING

Bids shall be opened immediately following the bid due date and time. Pricing will be publicly read and recorded in the presence of witnesses. All other information in the bids shall remain confidential until after award of contracts, with the exception of review by Mohave staff and selected evaluators.

4. CANCELLATION

4.1. Cancellation Process: The following requirements shall apply to all cancellation notices issued under an awarded contract:

- A written notice of cancellation shall be sent to the contract vendor and the effective date of cancellation shall be the date specified within the written notice of cancellation.
- Upon cancellation, all products, materials, processes and services paid for by the member, along with documents, data and reports prepared by contract vendor under the contract shall become the property of the member.
- Contract vendor shall be entitled to receive just and equitable compensation in accordance with applicable contract pricing for authorized work in progress, authorized work completed and materials accepted before the effective date of the cancellation.
- Cancellation shall have no effect on projects in progress prior to the effective date of the cancellation.
- Contract vendor is obligated to continue submitting monthly reconciliation reports and administrative fee payments until all purchases are complete and closed.

4.2. Cancellation for bankruptcy or acquisition: Mohave reserves the right to cancel, or suspend the use of, any contract if contract vendor files for bankruptcy protection, or if the original contract holder is sold and ownership is transferred to a new party.

4.3. Cancellation for conflict of interest: In accordance with A.R.S. §38-511, Mohave may cancel the contract within 3 years after contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of Mohave is or becomes at any time while the contract, or an extension of the contract is in effect an employee of or a consultant to any party to the contract with respect to the subject matter of the contract. The cancellation shall be effective when the contract vendor receives written notice of the cancellation unless the notice specifies a later time.

4.4. Cancellation for convenience: Mohave reserves the right to immediately cancel the contract without penalty or recourse, in whole or in part, when Mohave determines that action to be in the best interests of its members.

4.5. Cancellation for non-performance or contract vendor deficiency: Mohave may terminate any contract if members have not used the contract, or if purchase volume is determined to be "low volume" in any 12-month period. Mohave reserves the right to cancel the whole or any part of this contract due to failure by contract vendor to carry out any obligation, term or condition of the contract. Mohave may issue a written deficiency notice to contract vendor for acting or failing to act in any of the following:

- Failing to comply with the accepted terms and conditions of the contract;
- Providing material that does not meet the specifications of the contract;
- Providing work and/or material that was not awarded under the contract;
- Failing to adequately perform the services set forth in the scope of work and specifications;
- Failing to complete required work or furnish required materials within a reasonable amount of time;
- Failing to make progress in performance of the contract and/or giving Mohave reason to believe that contract vendor will not or cannot perform the requirements of the contract
- Failing to provide required performance bonds;
- Performing work or providing products, materials, processes or services under the contract prior to receiving a Mohave reviewed member purchase order for such work.

Upon receipt of a written deficiency notice, contract vendor shall have ten (10) days to provide a satisfactory response to Mohave to adequately address all issues of concern. Failure to adequately address all issues of concern may result in contract cancellation. Upon cancellation under this clause, all goods, materials and work paid for by the member, along with documents, data and reports prepared by contract vendor under the contract shall become the property of the member.

4.6. Cancellation for replacement: Mohave reserves the right to cancel a contract awarded under this solicitation, if a new solicitation has been issued and a contract has been awarded to the same contract vendor for similar products, materials, processes and services. Mohave may, at its option, either replace a contract resulting from this solicitation or delay a new award until the existing contract expires. The decision to delay or replace the contract rests solely with Mohave.

4.7. Contract vendor cancellation: Contract vendor may cancel this contract at any time upon thirty (30) days prior written notice to Mohave or at time of annual contract renewal (contract modification). Termination shall have no effect on projects in progress at the time the notice of cancellation is received by Mohave.

4.8. Continuation of performance: Contract vendor shall continue to perform in accordance with the requirements of the contract, up to the date of cancellation and as directed in the cancellation notice.

4.9. Gratuities: If it appears that any person has not complied with A.R.S. §15-213(O), Mohave may, by written notice, terminate the contract, in whole or in part, if Mohave determines that any person or contract vendor has offered, conferred or agreed to confer any personal gift or benefit on any employee of Mohave or a member employee who supervised or participated in the planning, recommending, selecting or contracting of the contract. Officers, employees and agents are prohibited from soliciting or accepting gratuities, favors or anything of monetary value from contractors or parties of subcontractors under an awarded contract. Paying the expenses of normal business meals shall be in accordance with each member's policy regarding gratuities. Samples as requested in the solicitation and provided to Mohave for demonstration or evaluation are not considered gratuities.

4.10. Contract vendor offerings: Mohave may, by written notice, terminate the contract in whole or in part, if Mohave determines that employment or a gratuity was offered or made by the contract vendor or a representative of the contract vendor to any officer or employee of the school district or school purchasing cooperative for the purpose of influencing the outcome of the procurement or securing the contract, an amendment to the contract, or favorable treatment concerning the contract, including making of any determination or decision about contract performance.

5. CAPTIONS, HEADINGS AND ILLUSTRATIONS

The captions, illustrations, headings, and subheadings in this solicitation are for convenience and ease of perusal only, and in no way define, limit or describe the scope or intent of the request.

6. CERTIFICATION

By signing the *Bid and Acceptance Form* (page 2 of the IFB), bidder certifies the following:

- Bidder has examined and understands the terms, conditions, scope of work, specifications and other documents in this solicitation.
- The submission of the bid did not involve collusion or other anticompetitive practices and that the bidder has taken steps and exercised due diligence to ensure that no violation of A.R.S. §15-213(O) has occurred. Neither signatory nor any person on his behalf has connived or colluded to produce a deceptive show of competition in the matter of the bidding or award of a contract under this solicitation.
- Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.
- Neither bidder, nor any officer, director, partner, member or associate of bidder, nor any of its employees directly involved in obtaining contracts with the State of Arizona, Mohave Educational Services Cooperative, Inc., or any subdivision of the state has been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985.
- Bidder agrees to comply fully with any and all provisions of ARS Title 32, Chapter 10 (Registrar of Contractors) that may regulate bidder's business.
- Bidder shall not discriminate against any employee, or applicant for employment, in violation of federal and state laws (see Federal Executive Order 11246; and ARS Title 41, Chapter 9, Article 4).
- Bidder is not currently suspended, debarred or otherwise precluded from participating in any public procurement activity with any federal, state or local government entity.
- If awarded a contract, bidder agrees to promote, offer and sell under Mohave contract only those materials and/or services awarded to contract vendor by Mohave.
- If awarded a contract, bidder shall provide the equipment, commodities, and/or services to members of Mohave in accordance with the terms, conditions, scope of work, specifications, and other documents of this Invitation For Bid.
- If awarded a contract, bidder agrees that all staff and other individuals eligible to receive services shall have equal access to the services regardless of race, religion, color, sex, disability, age or national origin (including language minority individuals).
- Bidder and all proposed subcontractors comply and shall remain in compliance with the Federal Immigration and Nationality Act (FINA), all other federal immigration laws and regulations, ARS §41-4401, and ARS §23-214, which requires compliance with current federal immigration laws by Arizona employers, Arizona contractors and Arizona subcontractors in accordance with the E-Verify employee eligibility verification program.
- Bidder shall comply with ARS §35-393.01 and certify that they are not currently engaged in, and agree that for the duration of the contract to not engage in, a boycott of Israel.

- If applicable to the products and services offered under this contract, Bidder shall comply with current applicable requirements of Health Insurance Portability and Accountability Act of 1996 (HIPPA), and accompanying regulations. Contract vendor agrees to work with the member in the course of performance so that the member and contract vendor are in compliance with HIPPA.

7. CONFIDENTIAL INFORMATION

7.1. Confidential information request: If bidder believes that its bid contains confidential trade secrets or other proprietary data not to be disclosed, a statement advising Mohave of this fact shall accompany the bid, and the information shall be so identified wherever it appears. Mohave shall review the statement and notify the bidder of their determination in writing whether the information shall be withheld or disclosed. Requests to deem the entire bid as confidential will not be considered.

7.2. Pricing: Mohave will not consider pricing to be confidential or proprietary.

7.3. Public record: All bids submitted in response to this solicitation shall become the property of Mohave. They will become a matter of public record available for review, subsequent to award of contract(s), with the exception of information deemed confidential by Mohave.

8. CONFIRMATION

If an apparent mistake in a bid, relevant to the award determination is discovered after opening and before award, Mohave shall contact the bidder for written confirmation of the bid. If bidder fails to act, the bidder shall be considered non-responsive.

Mohave may contact a bidder to confirm our understanding of the bid. Such contact shall be prior to award. Mohave shall obtain written confirmation from the bidder and shall retain the confirmation in the procurement file. Correction of mistakes in a bid shall only be allowed as described in Arizona procurement rules and code.

9. CONTRACT MANAGEMENT

9.1. Applicable law: The contract shall be governed by the laws of the State of Arizona, and suits pertaining to the contract may be brought only in courts in the State of Arizona.

9.2. Application of law: The Arizona Procurement Code, the Arizona State Board of Education School District Procurement Rules, and the Uniform Commercial Code (UCC) as adopted by the State of Arizona, are part of this document as if fully set forth herein. Any provision or clause required by law, rule or regulation to be included in the contract will be read and enforced as if in the contract, whether or not physically included. If any such provision is not included, or is not correctly included, contract will be amended in writing to make such inclusion or correction upon application from either party to contract.

9.3. Arbitration: After exhausting applicable administrative review, the parties to this contract may agree to resolve disputes arising out of or relating to this contract through arbitration, to the extent allowed by law.

9.4. Assignment: Contract vendor shall assign no right or interest in this contract without prior written permission from Mohave. No delegation of any duty of contract vendor shall be made without prior written permission from Mohave. Mohave shall not unreasonably withhold approval and shall notify contract vendor of its decision within fifteen (15) days of receipt of written notice from contract vendor.

9.5. Contract claims or controversies: The requirements of the Arizona procurement rules and code shall govern any contract awarded as a result of this solicitation, as well as any contract claims or controversies associated with it.

Formal contract claims and controversies between a member and contract vendor shall be resolved in accordance with R7-2-1155 through R7-2-1159, or ARS, Title 41, Chapter 23, Article 9, as applicable. The member's authorized representative shall serve as the district representative for resolution of such claims and controversies. ARS, Title 41, Chapter 23, Article 9 and the rules promulgated under it, or R7-2-1155 through R7-2-1159, as applicable, provide the exclusive procedure for asserting a cause against the member under the contract.

9.6. Contract placed on hold: Mohave shall have the ability to place a contract on hold, if it is deemed necessary to address ongoing problems with an awarded contract. Details of the decision to place the contract on hold shall be provided in a written deficiency notice. A reasonable amount of time shall be provided to contract vendor to address issues in the written deficiency notice.

9.7. Modification of contract: An awarded contract may be modified for a variety of reasons. Contract modifications will be issued as deemed necessary by Mohave to address contractual issues that may arise.

9.8. Novation: If contract vendor sells or transfers all assets or the entire portion of the assets used to perform this contract, a successor in interest must guarantee to perform all obligations under this contract. Mohave reserves the right to accept or reject any new party. A simple change of name agreement will not change the contractual obligations of contract vendor.

9.9. Order cycle overview:

One, or both, of the following order cycles will apply to an awarded contract. A sample reconciliation report will be provided to contract vendors who have been awarded a contract. Instructions for filling out the purchase order, or Pcard process, will be contained in that sample reconciliation report.

For Procurements made with purchase orders:

1. Member forwards purchase orders to Mohave that lists the contract number, along with a copy of detailed contract vendor quote. Vendor listed on the purchase order is contract vendor.
2. Mohave reviews and emails member order with "*MESC Reviewed*" stamp, to contract vendor and member.
3. Contract vendor provides product/services.
4. Contract vendor invoices member.
5. Member pays contract vendor.
6. Contract vendor sends monthly Reconciliation Report to Mohave.
7. Contract vendor remits administration fee monthly, based on invoices paid.
8. Mohave audits selected invoices.

For Procurements made with Pcards:

1. Member purchases directly from contract vendor using a Pcard and forwards a copy of detailed contract vendor quote to Mohave (if applicable).
2. Mohave reviews and emails contract vendor quote with "*MESC Reviewed*" stamp, to contract vendor and member (if applicable).
3. Contract vendor provides product/services.
4. Contract vendor invoices member (if not previously paid with Pcard).
5. Member pays contract vendor (if not previously paid with Pcard).
6. Contract vendor sends monthly Reconciliation Report and copy of detailed Pcard transaction, invoice or quotation to Mohave.
7. Contract vendor remits administration fee monthly, based on Pcard purchases paid.
8. Mohave audits selected Pcard purchases.

9.10. Overcharges by antitrust violations: Mohave maintains that overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, contract vendor assigns to member any and all claims for such overcharges as to the products, materials, processes or services used to fulfill the contract.

9.11. Relationship of the parties: Vendors receiving contracts under this solicitation are independent contractors. Any party to the contract shall not be deemed to be the employee of another party to the contract.

9.12. Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

9.13. Successful performance: The sections of the solicitation defining the scope of services, requirements, or qualifications are not to be construed as a complete listing that exempts successful bidder from reasonable services required to ensure successful performance under the contract.

10. COOPERATIVE PURCHASING

10.1. Cooperative purchasing: This contract is based on the need for Mohave to provide the economic benefits of volume purchasing and reduction in administrative costs through cooperative purchasing to members. Any bid that prohibits sales to specific types of members (e.g., state agencies or local government units) may not be considered. Sales without restriction to any members are preferred.

10.2. Cooperative purchasing agreements: Cooperative Purchasing Agreements between Mohave and its members have been established under Arizona procurement rules and code for use of contracts.

10.3. Most favored customer relationship: Nothing in this solicitation is intended to establish a most favored customer relationship between Mohave and contract vendor. Contract vendor may respond to any solicitation without regard to this contract. Bidder agrees all prices, terms, warranties, and benefits granted by bidder to members through this contract are comparable to or better than the equivalent terms offered by bidder to any present customer meeting the same qualifications or requirements. If contract vendor offers lower prices to any of its other customers, it may lower its prices to Mohave at the same time by written notice.

10.4. Eligible agencies: Any contract awarded from this solicitation shall be available to all Mohave members. Members shall have a current signed Mohave Cooperative Purchase Agreement. Member is defined as a local or public procurement unit, or a governmental public entity that is a political subdivision for purposes of federal income tax, or a nonprofit educational or public health institution that is a political subdivision for purposes of federal income tax or meets the requirements of Section 115 of the Internal Revenue Code. Mohave has approximately 470 members including public school districts, community colleges, city and county governments and political subdivisions throughout Arizona. A list of members may be found on Mohave's website, www.mesc.org. Actual use of any contract shall be at the sole discretion of Mohave's members.

11. ESTIMATED QUANTITIES

Mohave anticipates considerable activity resulting from this solicitation. An estimate of purchases is provided in the Scope of Work (page 6) of the requested materials or services. However, no commitment of any kind is made concerning quantities to be acquired. Mohave does not guarantee usage. Usage depends on the actual needs of members and marketing by contract vendor.

12. EVALUATION and AWARD

12.1. Basis of award: Award(s) will be made to the responsive and responsible bidder(s) whose bid(s) is (are) determined in writing to be the low responsive and responsible bid or bids. Mohave

reserves the right to use model projects/market baskets to determine the ranking of bids. It is Mohave's intent to award a complete line of products, when possible and advantageous.

12.2. Exceptions/deviations to requirements: All requested exceptions/deviations must be clearly explained. Unacceptable exceptions/deviations shall remove your bid from consideration for award. Mohave shall be the sole judge on the acceptance of exceptions/deviations and Mohave's decision shall be final.

12.3. Formation of contract: A response to this solicitation is an offer to contract with Mohave based upon the terms, conditions, scope of work, specifications and amendment(s) contained in this bid. A bid does not become a contract unless and until Mohave accepts it. A contract is formed when a Mohave administrator signs the award document.

12.4. Effect of price: No contract shall be awarded solely on the basis of price.

12.5. Market basket: If bidder is providing an alternative product in the required Market Basket, bidder must provide specifications for those products. *White papers are not specifications and are not acceptable.*

12.6. Multiple award: To assure that our contracts meet the requirements of all members, Mohave may award multiple contracts. Bidder should consider this fact in preparing their response. The decision to award multiple contracts, award a single contract, or make no award rests solely with Mohave.

A multiple award shall be made only if the procurement officer determines in writing that a multiple award is necessary and is advantageous to Mohave members. A multiple award shall be limited to the least number of contracts necessary to meet the requirements of the using agencies. Mohave shall make the sole determination of the least number of contracts required to meet the need. Mohave's basis for determining whether to award multiple contracts shall be based upon considerations for the large number of members, diverse types of members, location of members throughout Arizona and members' past usage of similar contracts.

Criteria for selecting vendors for multiple contracts shall be based upon considerations for members' experience with existing products and systems, brand continuity for parts replacement and future expansion, contract vendor's ability to provide for our large, diverse membership, bonding capacity, Mohave's past experience with contracts for similar product/services, and/or other relevant criteria. Multiple contracts may also be awarded based on individual line items or groups of line items, incrementally, or by designated regions.

12.7. Non-exclusive contract: Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of Mohave's members. Mohave and its members reserve the right to obtain like goods and services from other sources.

12.8. Past performance information: Past Performance Information (PPI) is relevant information regarding a contract vendor's actions under previously awarded contracts to public agencies. It includes contract vendor's record of performance under such contracts including, but not limited to: conformance to the terms, conditions, specifications and scope of work of the contracts, responsiveness to, and correction of, contract claims and controversies, and satisfaction of the contracting entities. PPI shall be a factor in evaluation and award.

12.9. Price workbook: All bidders must complete the 20N Sports Courts: New, Repair and Maintenance workbook titled **"20N Sports Courts.xlsx"**. Failure to complete and submit the 20N Sports Courts: New, Repair and Maintenance workbook shall render your bid nonresponsive. The original, unlocked Excel formatted pricing workbook shall be uploaded to ProcureNow. In addition, your pricing workbook, your pricing schedules and any additional requested pricing shall be submitted after Tab 3a in a searchable PDF format with your bid. If awarded a contract, all future pricing updates shall be based on the electronic workbook, or similar approved format.

12.10. Pricing extension errors: In case of error in extension of prices in the bid, unit prices shall govern.

12.11. Responsible bidder: A responsible bidder is a firm or person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability that will assure good faith performance. Mohave shall determine a bidder to be responsible before awarding a contract to bidder.

12.12. Responsive bids: A responsive bid conforms in all respects to the material requirements of the solicitation. Bids must be responsive to receive award consideration. Mohave reserves the right to waive minor informalities.

13. FEDERAL and STATE REQUIREMENTS

13.1. Affordable Care Act requirements: Contract vendor understands and agrees that it shall be solely responsible for compliance with the Patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care Education Reconciliation Act, Public Law 111-152 (collectively the Affordable Care Act "ACA"). Contract vendor shall bear sole responsibility for providing health care benefits for its employees who provide services to the member as required by state or federal law.

13.2. Audit rights: In accordance with applicable Arizona law, contract vendor's and subcontractor's books and records related to this contract may be audited at a reasonable time and place, for five years after completion of the contract.

13.3. Clean Air Act, Clean Water Act and Environmental Protection Agency Regulations: Contract vendor and its subcontractors shall comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act, section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations (7 CFR 3016.36 (i) (12)). This shall only apply to federally funded projects subject to the Clean Air Act, Clean Water Act and current applicable EPA regulations.

13.4. Compliance with federal and state requirements: Contract vendor agrees, when working on any federally assisted projects with more than $2,000 in labor costs, to comply with the Contract Work Hours and Safety Standards Act, the Davis-Bacon Act, the Copeland "Anti-Kickback" Act, the Housing and Urban Development Act of 1968, the Equal Opportunity Employment requirements as amended by Executive Order. In such projects, contract vendor agrees to post wage rates at the work site and submit a copy of their payroll to the member for their files.

In addition, to comply with the Copeland Act, contract vendor must submit weekly payroll records to the member. Contract vendor must keep records for three years and allow the federal grantor agency access to these records, upon demand. Contract vendor also agrees to comply with State of Arizona Executive Order 75-5, as amended by Executive Order 99-4.

When working on any projects funded with federal grant monies, contract vendor agrees to comply with the administrative requirements for grants and cooperative agreements to state, local and federally recognized Indian tribal government contract provisions.

The forms listed below are incorporated by reference into this solicitation and any resultant contract.

- HUD-5369, Instructions to Bidders for Contracts, Public and Indian Housing Programs
- HUD-5369-A, Representations, Certifications, and Other Statements of Bidders, Public and Indian Housing Programs
- HUD-5369-B, Instructions to Offerors Non-Construction
- HUD-5369-C, Certifications and Representations of Offerors Non-Construction Contract
- HUD-5370, General Conditions of the Contract for Construction
- HUD-5370-C1, General Conditions for Non-Construction Contracts Section 1 (With or Without Maintenance Work)
- HUD-5370-C2, General Conditions for Non-Construction Contracts Section 1 (With Maintenance Work)

For federally funded projects only, the requirements of an applicable form shall supersede conflicting requirements in this solicitation. The forms may be accessed via HUDClips (http://www.hud.gov).

13.5. Compliance with workforce requirements: Pursuant to ARS §41-4401, contract vendor and subcontractor(s) warrant their compliance with all federal and state immigration laws and regulations that relate to their employees, and compliance with ARS §23-214 subsection A, which states, "*...every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.*" [To register for E-Verify, go to: https://e-verify.gov/employers/enrolling-in-e-verify]

Mohave reserves the right to cancel or suspend the use of any contract for violations of immigration laws and regulations. Mohave and its members reserve the right to inspect the papers of any contract vendor or subcontract employee who works under this contract to ensure compliance with the warranty above.

13.6. Contract vendor employee work eligibility: By entering into the contract, contract vendor warrants compliance with ARS §41-4401, ARS §23-214, the Federal Immigration and Nationality Act (FINA), and all other current federal immigration laws and regulations. Mohave and/or Mohave members may request verification of compliance from any contract vendor or subcontractor performing work under this contract. Mohave and its members reserve the right to confirm compliance. Should Mohave or its members suspect or find that the contract vendor or any of its subcontractors are not in compliance, Mohave may pursue any and all remedies allowed by law, including, but not limited to suspension of work, termination of the contract for default, and suspension and/or debarment of the contract vendor. All costs necessary for compliance are the responsibility of the contract vendor.

13.7. Davis-Bacon wage decisions: For federally funded projects subject to the Davis-Bacon Act, the member shall specify the applicable Davis-Bacon wage decision, prior to the contract vendor providing a firm price quotation for the proposed project. The wage decision shall be identified by the WD Number, modification number, and date of the wage decision. Davis-Bacon wage decisions may be accessed via www.wdol.gov or by requesting a copy from the member.

13.8. Energy Policy and Conservation Act: Contract vendor and its subcontractors shall comply with mandatory standards and policies relating to energy efficiency (7 CFR 3016.36 (i) (13)). This shall only apply to federally funded projects subject to current applicable energy policies and the Energy Conservation Act.

13.9. Non-compliance: All federally assisted contracts with members that exceed $10,000 may be terminated by the federal grantee for noncompliance by contract vendor. In projects that are not federally funded, bidder must agree to meet any federal, state or local requirements, as necessary. In addition, if compliance with the federal regulations increases the contract costs beyond the agreed on costs in this solicitation, the additional costs may only apply to the portion of the work paid by the federal grantee.

13.10. Offshore performance of work prohibited: Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the state shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

13.11. Procurement of recovered material: Contract vendor and its subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as stated in 2 CFR 200.321.

13.12. Rights to inventions: Rights to inventions made under a contract or agreement as specified under Appendix II to 2 CFR shall apply for federally funded projects.

13.13. Subcontracts: Prime Contractor, if subcontracts are to be let, will allow all business to have an equal opportunity to sign up as a prospective bidder for work assigned under this contract.

13.14. Terrorism country divestments: In accordance with ARS §35-392, Mohave and its members are prohibited from purchasing from a company that is in violation of the Export Administration Act. By entering into the contract, contract vendor warrants compliance with the Export Administration Act.

13.15. Compliance to USDA solicitation requirements:

- Bidder certifies that all pricing in their bid has been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor certification regarding non-collusion.
- Bidder agrees to comply fully with U.S. Department of Agriculture, the Arizona Department of Education, U. S. Accounting Office, or any of their duly authorized representative to allow access to any books, documents, papers, and records of the bidder, which are directly pertinent to the specific contract, for the purpose of audits, examinations, excerpts, and transcriptions. Additionally, the bidder shall provide all documents as necessary for the independent auditor to conduct the school food authority (SFA) single audit (if applicable). In the event of any unresolved audit findings, the records shall be retained beyond the five (5) year period for as long as required for resolution of these issues raised by the audit.
- Bidder agrees to comply with all mandatory standards and policies relating to energy efficiency as cited in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).
- Bidder shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations, 41 CFR Part 60 3016.36(i)(3).
- Bidder shall comply with the following civil rights laws as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Department of Agriculture regulations on nondiscrimination 7 CFR 210.23 (b); Title 7 CFR parts 15, 15a, and 15b; the Americans with Disabilities Act; and the FNS Instruction 113-6; "Civil Rights Compliance and Enforcement in School Nutrition Programs".
- Bidder shall comply with the provisions of the Consumer Product Safety Act.
- Bidder shall disclose all discounts, rebates, allowances and incentives received by the bidder from its suppliers. If the bidder receives a discount, rebate, allowance, or incentive from any supplier, the bidder shall disclose and return to the SFA, (if applicable), the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the SFA. The bidder shall identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit according to 7 CFR 210.21(f)(1)(iv).
- Bidder shall agree no expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of the requirements for prohibited expenditures or as required in 7 CFR §210.21 or 7 CFR §210.21(f)(2).

14. FORCE MAJEURE

Except for payments of sums due, neither party shall be liable to the other, nor be deemed in default under this contract, if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence, including, but not limited to the following: acts of God (e.g. fire, flood, snow, earthquakes, tornadoes, violent winds, hail storms); acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; lockouts; injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring it notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with the contract. Force majeure shall not include late deliveries of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences. If either party is delayed at any time by force majeure, the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours.

15. INDEMNIFICATION

15.1. General indemnification: To the extent permitted by law, Mohave and its members shall be indemnified and held harmless by contract vendor for its vicarious liability as a result of entering into this contract. Each party to the contract is responsible for its own negligence. Contract vendor agrees to save and hold harmless Mohave and/or its members from any and all liability for loss or damage to persons or property arising out of the work required by the contract. Contract vendor further agrees to waive any right of recovery against Mohave and/or its members for damage to the property of contract vendor, whether caused by negligence on the part of Mohave and/or its members or otherwise. This provision includes specifically the waiver of right of recovery against Mohave and/or its members for damage to property under contract and not yet formally accepted by member even though said property at the time of loss may be occupied, in whole or in part, by member.

15.2. Modification by member: Contract vendor shall have no obligation with respect to any patent and copyright infringement claim based upon member's modification of the equipment and/or software, or its operation or use with apparatus, data or programs not furnished by contract vendor. However, one member's action will not preclude contract vendor's obligation to members who have not modified their equipment or software.

15.3. Patent and copyright indemnification: To the extent permitted by law, contract vendor shall indemnify and hold harmless Mohave and its members against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of contract performance or use by Mohave and its members of materials furnished or work performed under this contract. Mohave and its members shall reasonably notify contract vendor of any claim for which it may be liable under this paragraph.

16. LICENSES

A contract vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by contract vendor. The contract vendor shall remain fully informed of and in compliance with all current ordinances and regulations pertaining to the lawful provision of services under the contract. Mohave reserves the right to stop work and/or cancel the contract of any contract vendor whose license(s) expire, lapse, are suspended or terminated. Contact vendor shall immediately notify Mohave of any expiration, lapse, suspension or termination of license(s).

17. BID ACCEPTANCE PERIOD/WITHDRAWAL

17.1. Late bids: Except as authorized by Arizona procurement rules and code, late bids shall not be considered. Bidder shall be responsible for all shipping costs when requesting the return of a late bid.

17.2. Withdrawal of bid: A bidder may withdraw a bid in writing at any time before bid opening if the withdrawal is received before the bid due date and time at the location designated in the invitation for bids for receipt of bids. After the opening time and date, bids may not be withdrawn, except as allowed by Arizona procurement rules and code.

18. ORDER OF PRECEDENCE

In the event of a conflict in the provisions of the contract as accepted by Mohave, the following order of precedence shall prevail:

1. Special terms and conditions
2. General terms and conditions
3. Scope of work and specifications
4. Attachments and exhibits
5. Documents referenced or included in the solicitation

19. ORDERING CYCLE

19.1. Acceptance of orders: This contract is for the sole use of Mohave and its members. All quotations provided to members must be based on prices in the contract and include the correct Mohave contract number. Contract vendor may only refuse a Mohave reviewed order under this contract after providing written documentation acceptable to Mohave describing the circumstances that warrant refusal. Improper documentation and/or frequent refusals may result in contract cancellation. Mohave may require the contract vendor to reject any purchase orders received from members based on this contract that may not comply with Mohave's rules, processes or standards.

19.2. Audit of contract activity: Mohave will audit some of the invoices related to this contract. The contract vendor agrees to provide all documentation necessary for Mohave to audit purchases made under contract, including invoices and credits issued to members, in a timely fashion.

19.3. Contract vendor contacts: Contract vendor agrees to assign only one contact person for each of the following: accounting, audit, contract administration, escalation, main member contact, open order/status report, and reconciliation. These contacts may be the same person, with the exception of the escalation contact. The name(s) of the contact persons will be provided to Mohave.

19.4. Open order and status reports: Mohave will send contract vendor open order and status reports on a periodic basis. Contract vendor agrees to reply to information requests in a timely fashion.

19.5. Orders in process: Member purchase orders dated on or before the contract cancellation and/or expiration date, will be processed and are considered valid until order fulfillment, or cancellation by the member. Any such order must be in the possession of Mohave within a reasonable amount of time. Acceptance of such orders shall be at the sole discretion of Mohave.

19.6. Purchase verification: It is the member's independent responsibility to verify that quotations and purchase orders comply with the terms of the award of a contract or procurement.

19.7. Quotations: Quotations with no end date are considered invalid after sixty (60) days from the issue date.

20. PAYMENT

20.1. Contacting member about payment: Contract vendor may contact member for payment for a product or service delivered to the member under the contract. Such contact shall be professional and courteous.

20.2. Contract vendor invoice: All invoices shall list the applicable member purchase order number and Mohave contract number. Contract vendor will invoice members directly. All transactions are payable in U.S. currency only. Contract vendor shall invoice member after delivery of goods and/or services. Goods and services shall be invoiced at applicable contract prices, which include Mohave's 1% administration fee.

Mohave's administration fee is included in the invoice amount paid by the member. Contract vendor shall remit administration fee to Mohave monthly. Administration fee shall be calculated at .0099 of the subtotal amount. The Mohave administration fee shall not be calculated on ancillary charges (e.g. performance bonds, shipping, transaction privilege tax, transportation charges, mileage, lodging, meals and incidental expenses (M&IE), permits).

20.3. Contract vendor payment: Member shall issue payment to contract vendor after receipt of invoice.

20.4. Correct invoicing: Contract products/services may not be invoiced greater than the purchase order. If incorrect invoices are discovered, contract vendor must correct invoices resulting in excess charges, no matter the cause of the error. Any excess payment must be returned to member within the time allowed by law, in the form of a check or credit memo, as determined by the member.

If a member is invoiced at less than contract prices, contract vendor will invoice the member for the difference unless Mohave approves the undercharge.

If contract pricing in effect on the contract has gone down between the time of the order and the invoice date, contract vendor may invoice at the current contract price.

20.5. Credit hold: Contract vendor agrees to advise Mohave's Procurement Manager within five (5) days if member(s) are placed on credit hold.

20.6. Payment time: Payment terms are net thirty (30) days from receipt of contract vendor's invoice.

20.7. Prepayment: In accordance with the Uniform System of Financial Records and ARS §15-905(N), prepayments may be requested on items that normally require prepayment in order to be procured or to receive a discounted price. Items not meeting these prepayment specifications may be paid only after receipt of goods and services.

20.8. Progress payments: Members may make progress payments under the following conditions: 1) Member and contract vendor agree to the terms of the progress payments prior to issuing a purchase order; 2) the purchase order describes the amounts/percentages to be paid and the dates/frequency of payment; 3) member accepts responsibility for verifying the validity of each payment application; 4) payments are made only after goods and/or services are verified; and 5) any such payments are made in full compliance with member's local governing entity rules and any and all other applicable state rules and regulations.

20.9. Quick pay discounts: Quick pay discounts may be offered to members, provided they have received the materials or services, and that such discounts are available equally to all members. Mohave must approve such discounts in writing and before they are offered to members.

20.10. Reporting and payment of administration fees to Mohave: The contract vendor agrees to provide a Reconciliation Report detailing activity under the contract, and payment for Mohave administration fees for invoices paid or Pcard transactions made in the previous month.

Purchases made with purchase orders: Items in the report must include member names, PO numbers, amounts, administration fees, invoice numbers, invoice dates and credit/return information for all invoices paid in the prior month.

Purchases made with Pcards: The report must be identified as Pcard (or as a credit card) when submitted. Items in the report must include member names, notation that the purchase was made with a Pcard, date of transaction, job number designation, amounts, administration fees, invoice numbers (if applicable), invoice dates (if applicable) and credit/return information for all invoices paid in the prior month. An electronic copy (e.g. PDF) of the detailed Pcard sales receipt, invoice, or quotation shall be provided for review.

Payment and report are due as per a schedule agreed upon by Mohave and contract vendor. The initial due date shall be the **10th, 15th, 20th, 25th or 30th** of the following month and will be specified in an award notification letter. If no invoices were paid under the contract in the previous month, the contract vendor will provide notice of no activity. A sample reconciliation report will be made available upon award of contract.

Make Mohave administration fees payable to Mohave Educational Services Coop., Inc. Payments shall be mailed to: 625 E. Beale St.
Kingman, AZ 86401

21. PREPARATION OF BID and BID FORMAT

21.1. Modification of bid: A bidder may modify a bid in writing at any time before bid opening if the modification is received before the bid due date and time at the location designated in the invitation for bids for receipt of bids.

21.2. Bid forms: The forms and format contained in the solicitation shall be used. Bidders may reproduce the forms and retype the information, but all of the required information must be presented in the tab order requested.

21.3. Bidder responsibility: Bidder shall examine the entire solicitation, seek clarification of any item or requirement that may not be clear, and check all responses for accuracy before submitting bid. Failure to examine any requirements shall be at bidder's risk. Negligence in preparing a bid confers no right of withdrawal after due date and time.

21.4. Cost of bid preparation: Mohave will not reimburse the cost of developing, presenting, or providing any response to this solicitation.

22. PRODUCT LINES

22.1. Current products: Bids shall be for materials and equipment in current production and marketed to the general public and education/government agencies at the time the bid is submitted.

22.2. Discontinued products: If a product or model is discontinued by the manufacturer, contract vendor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.

22.3. New products/services: New products/services must be submitted and approved by Mohave, prior to being offered to member. Mohave may reject any additions without cause. New products and/or services that meet the scope of work may be added to the contract. Contract vendor may replace or add product lines to an existing contract if the line is replacing or supplementing products on contract, is equal or superior to the original products offered, is discounted in a similar

or to a greater degree, and if the products meet the requirements of the solicitation. No products and/or services may be added to avoid competitive procurement requirements. Mohave may require additions to be submitted with documentation from members demonstrating an interest in, or a potential requirement for, the new product or service.

22.4. Options: Optional equipment for products under contract may be added to the contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.

22.5. Product line: Bidders with a published catalog may submit the entire catalog. Mohave reserves the right to select products within the catalog for award without having to award all contents. Mohave may reject any addition of equipment options without cause.

23. PROSPECTIVE BIDDERS REGISTRATION

Any bidder submitting a perfunctory bid with no serious intent of being accepted may be removed from Mohave's prospective bidders list. Any vendor not responding to two (2) consecutive Invitations for Bid for similar procurements may be removed from the prospective bidders. A "no bid" response or request to remain on the list is sufficient to keep a vendor on the Prospective Bidders Registration.

24. PROTESTS

Protests shall be filed with Anita McLemore, C.P.M., the Executive Director (the District Representative), and shall be resolved in accordance with Arizona procurement rules and code, ARS, Title 41, Chapter 23, Article 9 (https://www.azleg.gov/arstitle) and State Board Rules R7-2-1001 through R7-2-1196 (https://azsos.gov/rules/arizona-administrative-code). *A protest must be in writing and must be filed with the Executive Director at 625 E. Beale Street, Kingman, Arizona, 86401.* Protests based upon alleged improprieties in a solicitation shall be filed before the due date and time for responses to the solicitation. The interested party shall file the protest within ten (10) days after Mohave makes the procurement file available for public inspection. Due to Mohave staff working from home, reservations need to be made in advance for any live public inspection of documents. Refer to the Mohave Contract Specialist's contact information on page 1 of this Invitation for Bid. A protest filed on the tenth day must be received by 5:00 p.m., local Arizona time. The interested party may file a written request for an extension. The written request shall be filed before the time limit specified above and shall set forth good cause as to the specific action or inaction of Mohave that resulted in the interested party being unable to file the protest before the time limit specified above.

A protest shall be in writing and shall include the following information:

- The name, address and telephone number of the interested party;
- The signature of the interested party or the interested party's representative;
- Identification of the solicitation by contract number;
- A detailed statement of the legal and factual grounds of protest including copies of any relevant documents;
- The form of relief requested.

Should Mohave prevail in an appeal of a decision issued by the Executive Director, appellant waives any objection to the hearing officer awarding Mohave its reasonable attorneys fees and costs along with the costs for the hearing.

25. RIGHT TO ASSURANCE

Whenever one party to the contract has a good faith reason to question the other party's intent to perform, they may demand that the other party give written assurance of its intent to perform. If a

demand is made and no written assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory breach of the contract.

26. SAFETY STANDARDS

Items supplied under the contract shall comply with current applicable Occupational Safety and Health Standards of the Arizona Industrial Commission, National Electric Code, and National Fire Protection Association Standards.

27. SHIPPING

27.1. Shipping terms/transfer of title: Shipments shall be F.O.B. destination. Title and risk of loss of material shall not pass to member until member receives the material at delivery point, unless otherwise provided in the solicitation.

27.2. Shipment under reservation: Contract vendor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

27.3. Shipping charges: Prices that include shipping to any location in Arizona, delivered to the specific receiving point identified in the purchase order, are preferred. If shipping is charged, it shall be that member is not charged more than the actual invoiced amount for shipping, and is prepaid by the contract vendor (PP&A). It is the member's responsibility to confirm shipping charges under the contract.

27.4. Shipping errors/risk of transportation: Shipping errors will be at contract vendor's expense. If contract vendor ships a product that was not ordered, contract vendor shall pay for return shipment at the convenience of member. All risk of transportation and all related charges shall be contract vendor's responsibility. Contract vendor shall file all claims for visible or concealed damage. Member will notify contract vendor promptly of any damaged goods and shall assist contract vendor in arranging for inspection.

28. SUSPENSION OR DEBARMENT STATUS

Bidder shall include a letter in its bid notifying Mohave of any debarment, suspension or other lawful action taken by any federal, state or local government within the last five years that precludes bidder or its employees from participating in any public procurement activity. Such letter shall provide name and address of the public procurement unit, effective date, duration, and relevant circumstances of the suspension or debarment. Failure to supply such letter or not disclose all pertinent information shall result in cancellation of any contract. **Letter shall be placed after Tab 1a.**

29. TAXES

29.1. Federal Excise Tax: Most members are exempt from paying Federal Excise Tax.

29.2. Payment of taxes: Member is responsible for payment of all taxes listed on the invoice. Contract vendor is responsible for collecting such taxes and shall forward all taxes to the proper revenue office. All applicable taxes must be listed as a separate item on all invoices and will be paid by member issuing the purchase order.

29.3. Property taxes: Arizona public agencies may not pay state property taxes. (Arizona Constitution, Article 9, Section 2).

29.4. Reservation or tribal tax: If goods or services are subject to reservation or tribal tax, contract vendor shall include such taxes as a separate item on the original invoice to the member.

29.5. Transaction Privilege Tax (Sales Tax): Members may be liable for Arizona Transaction Privilege Taxes, which may include state, county and city taxes. Contract vendor is responsible for charging taxes correctly.

29.6. Taxes on construction: Contract vendors for construction-related projects must follow the latest tax requirements as described in current Arizona Administrative Code and Department of Revenue transaction privilege tax procedures.

30. TIME (DEFINITION OF)

Periods of time, stated as a number of days, shall be in calendar days, not business days.

1. BID SECURITY

1.1. Bid security requirement: School procurement rules [R7-2-1102 (A)] and as applicable in ARS §34-608 and §41-2573, require that all competitive sealed bidding for construction have bid security, if the amount of the construction contract will exceed the amount established by ARS §15-213(A). Bid security as a percentage of the bid amount is unacceptable, as this is a term contract with no specific bid amount. Bid security must be in the amount stated in "*Bid Bonds and Bonding Capacity.*"

1.2. Form of bid security: Acceptable bid security for this IFB will be a certified or cashier's check, or an annual or one time bid bond underwritten by a surety company licensed to issue bid bonds in Arizona [R7-2-1102 (B, C), ARS §34-608 and §41-2573]. Bid security may be provided using the form found in this IFB, with the principal being the prime contractor and the Obligee being Mohave Educational Services Cooperative, Inc. An agent of your licensed bonding agency shall sign the bond. If the original bond is not signed and/or has conflicting information, it shall render your bid nonresponsive.

2. CHANGE ORDERS

2.1. Adherence to specifications and drawings: The contract vendor shall follow the requirements of all specifications and drawings as closely as actual construction and work of contract vendors shall permit. Should existing conditions or limitations require a major change or rearrangement, the change shall be allowed only upon issuance of a written change order.

2.2. Change order requirement: Member and contract vendor shall establish a procedure for identifying and approving changes to the work. Member shall notify Mohave of any change that revises the cost of the project. Contract vendor shall not begin the revised work prior to receipt of the Mohave reviewed member change order.

Contract vendor agrees to follow all applicable rules and regulations for any change orders, including R7-2-1005 and as applicable in ARS §41-2552.

Change orders shall be properly documented in writing. Minor changes mutually agreed between the member and the contract vendor that do not involve compensation may be made without informing Mohave.

2.3. Costs for changes associated with improper checking or coordination: The cost of any change in construction due to improper checking of site and/or other conditions, or coordination by contract vendor, shall be borne by the contract vendor, and the contract vendor shall not be entitled to reimbursement for such costs.

3. CONSTRUCTION CONTRACTS

3.1. Compensation: Compensation for received goods, terms of progress payments, and a schedule of payments shall be described in the contract. The agreement shall state that Mohave will not be responsible for any late fees due the contract vendor by the member.

3.2. Member delays: As required by ARS §15-213 (D), the contract vendor shall negotiate with member for the recovery of damages related to expenses incurred by the contract vendor for a delay for which the member is responsible, which is unreasonable under the circumstances and which is not within the contemplation of the parties to the contract between the two parties. Any such negotiations shall not void any provisions between the parties that require notice of delays, provide for arbitration or other procedure for settlement or provides for liquidated damages.

3.3. Construction contract requirement: In any contract between the contract vendor and a member based on this contract, the terms and conditions of this contract shall prevail. In any contract between the member and the contract vendor, the scope of work shall include all specifications, drawings, and other official documents. All applicable codes around which the contract is made shall be included, as will any technical specifications and general conditions. The contract vendor shall acquire and pay for all permits and approvals from local, county, state and federal offices needed to accomplish the work. Contract vendor shall be entitled to direct reimbursement for the cost of such permits.

3.4. Form of construction contracts: A contract between the member and the contract vendor for construction shall be an industry standard agreement. The parties may agree to use the American Institute of Architects (AIA) General Conditions of Contract for Construction Form A201 as a guide.

3.5. Member representative: All formal contact between the contract vendor and/or contract vendor's personnel and the member shall be processed through the member representative. The member shall designate the member representative at the time of purchase.

3.6. Terms of acceptance: Terms for acceptance by the owner and title to work must be clearly agreed upon and described in the contract. If any part of the construction requires the member to assume control before the completion, this shall be defined. Both parties shall agree on the definition of what constitutes final acceptance. Upon completion of the project, the worksite shall be left in a condition equal to or better than before the project.

3.7. Void provisions: A provision, covenant, clause or understanding in, collateral to or affecting a construction contract that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against public policy of the State of Arizona and is void and unenforceable. (ARS §15-213 and §34-227)

3.8. Work performed by the member: Work to be performed by the member must be clearly described and agreed upon prior to project start up.

4. CONSTRUCTION SCHEDULE

4.1. Schedule adjustment: The member retains the right to extend the schedule of work or to suspend the work, and to direct the contract vendor to resume work when appropriate. The agreement must describe an equitable adjustment for added costs caused by any suspension. Any increases shall be invoiced per approved contract pricing as allowed in the agreement.

4.2. Schedule requirement: A schedule for performance of work that can be met without planned overtime is the responsibility of the contract vendor.

4.3. Work crew size: The cost for each project shall include all costs of all necessary trained personnel to complete the project on, or before, the completion date(s) set forth in the contract. The member shall not incur additional expense for upsized crews, nor overtime costs, which might be necessary for the contract vendor to complete the project on schedule.

5. COORDINATION

5.1. Conflict with member activities: The contract vendor and member shall coordinate activities so as to avoid conflicts. The contract vendor shall make every reasonable effort not to interrupt scheduled member activities with work under the contract. The contract vendor shall notify the member of any construction work that may negatively impact scheduled member activities.

5.2. Coordination with other vendors: The contract vendor shall coordinate with other contractors.

5.3. Interruption of other work: The contract vendor shall employ such methods or means as will not cause any interruption of, or interference with, work of any other contractor on the project site.

6. DELIVERY OF CONSTRUCTION MATERIALS

6.1. Condition of materials on delivery: The contract vendor shall deliver materials to the worksite in new, dry, unopened, and well-marked containers showing product and contract vendor's name. Damaged or unlabeled materials will not be accepted.

6.2. Delivery requirement: The contract vendor shall deliver materials in sufficient quantity to allow for continuity of work. Delivery shall be coordinated with the member's representative.

6.3. Precautions: The contract vendor shall take all necessary precautions to protect its materials from damage, theft and misuse. The member shall have no responsibility for such precautions or protection.

6.4. Rejected and damaged material: Damaged or rejected materials shall be immediately removed from the work area.

7. INSURANCE

Course of Construction Insurance: Upon request from member, contract vendor shall purchase and maintain course of construction insurance equal to the estimated replacement cost of the property after completion of the entire work at the site as called for in the purchase order. The insurance form will be an "all risk" type policy with standard exclusions. Coverage shall include temporary structures, scaffolding and office trailers at the site, as well as materials and equipment at the site destined to become a permanent part of the property. Any additional costs associated with course of construction insurance must be identified in the quote.

8. LABOR PRACTICES

8.1. Labor practices: The contract vendor must agree to treat its labor in keeping with its labor contract agreement and to the best interest of the member. Any overtime practices or retroactive agreements with labor unions that would be to the detriment of the member must be limited to only those approved by the member.

8.2. Labor requirements: The method and manner of performance must be stated in quotes and/or project documents: employees of the contract vendor are not employees of the member; the level of competency of the personnel will be subject to approval by the member; the contract vendor must agree to comply with all current applicable federal, state, and local laws; adjoining property owners must not be annoyed by noise, pollutants, material hauling operations; procedures for dealing with fire, theft, and storm damage must be established; methods the contract vendor will use to guarantee safe job practices relating to the health and welfare of the member employees and contract vendor employees will be clearly stated in quotes and/or project documents.

8.3. Quality of work: All work under the contract shall be accomplished by experienced craftsmen, helpers and laborers under the supervision of the foreman or supervisor.

8.4. Removal of Employee or Representative: The member shall have the right to require the contract vendor to remove from the project any employee or representative of the contract vendor, its subcontractors or suppliers that the member may deem incompetent, careless, insubordinate, or otherwise unacceptable.

8.5. Supervision: The contract vendor shall furnish the services of an experienced foreman or supervisor who will continually be in charge of work on the project. The foreman or supervisor shall provide continuous supervision, coordination and inspection of the work required under the contract.

9. LIQUIDATED DAMAGES

Any agreements on liquidated damages and early completion incentives shall be between the member and the contract vendor and must be agreed upon in writing prior to start up. If the member declines liquidated damages or early incentive agreement, the contract vendor shall obtain a written and signed

statement to this effect. Mohave shall not be a party to liquidated damages or early completion incentive agreements.

10. LITIGATION FOR NONPAYMENT OR NONPERFORMANCE

All litigation for nonpayment or nonperformance shall be filed as allowed in R7-2-1103 (F).

11. MEMBER COSTS

Temporary electrical service and the cost for power, the cost for water, and other member costs will be identified in writing and agreed upon.

12. PERFORMANCE AND PAYMENT BONDS

12.1. Issuing performance and payment bonds: It shall be the sole responsibility of the member to determine if any applicable performance and payment bonding requirements apply to the procurement under an awarded contract. Member must request that the contract vendor provide the performance and payment bonds that meets the requirements prior to project implementation.

The contract vendor shall supply Mohave with a copy of the procured bonds upon request. If the contract vendor fails to deliver any required performance or payment bonds requested by the member, the contract with Mohave may be cancelled.

12.2. Payment bond requirement: An irrevocable payment bond shall be executed in an amount equal to 100% of the price specified in the contract between the member and the contract vendor by a surety company authorized to do business in Arizona. This bond will protect all persons supplying labor and material to the contract vendor for the performance of the work provided in the contract.

12.3. Performance bond requirement: An irrevocable performance bond shall be executed in an amount equal to 100% of the price specified in the contract between the member and the contract vendor by a surety company authorized to do business in Arizona.

13. PROGRESS PAYMENTS

13.1. Progress Payments on Construction: R7-2-1105 allows for progress payments if the contract vendor agrees to adhere to ARS §41-2577 (B) (D) (F) and as applicable in ARS §34-221. All progress payments must be invoiced to the member; it is the responsibility of the member to review and approve any estimates of work completed. If the member issues a written statement to the bidder that the estimate of work is not approved and certified, the member may withhold an amount from the progress payment the member reasonably expects to incur in correcting the deficiency set forth in the written finding, as permitted in R7-2-1105 (A). In such cases, the bidder agrees to hold Mohave harmless for any deficiency of payment.

Progress payments may be made to the contract vendor on the basis of a duly certified and approved estimate of work performed during the preceding month. The contract vendor must agree to pay any subcontractors or material suppliers within seven days of their receipt of the progress payment, unless otherwise agreed on in writing between the parties.

13.2. Schedule of payments: Once all bonds are in place, the contract vendor and the member will agree upon a schedule of payments based on identifiable milestones.

If any payment is delayed beyond 30 days from the due date, the bidder agrees not to charge Mohave interest on the late payment. Any late charges will be the total responsibility of the member. The bidder may extend any due date to avoid the requirement to pay interest in R7-2-1105 (D) and ARS §41-2577 (E) and as applicable in ARS §34-221.

Acceptance of final payment is a waiver of all claims except unsettled claims previously made in writing.

13.3. Subcontractor notification: A subcontractor to the prime contractor may request, in writing, that member notify the subcontractor in writing within five (5) days from payment of each progress

payment made to the prime contractor [R7-2-1105 (C) and ARS §41-2577 (C) and as applicable in ARS §34-221]. Upon request, the prime contractor must provide Mohave or the members with a contact name, title, company name, mailing address and fax number for all subcontractors and suppliers that are covered by a payment bond.

14. PROJECT ADVERTISING

The contract vendor must agree that the member reserves the right to release information about the project and that any advertising of the project by the contract vendor must be approved by the member.

15. PROJECT COMPLETION

15.1. Project documents: Upon completion of the work, the contract vendor shall present the member with all documents necessary to closeout the project. Maintenance manuals, drawings, warranties on installed equipment, etc., shall be given to the member.

15.2. Unfinished work: Even if final payments are made, if the member discovers an unfinished job that should have been completed, the contract vendor shall complete the work in a timely fashion at no additional cost.

16. PUBLIC WORKS

16.1. Preservation: The contract vendor shall be responsible for the preservation of all public and private property included on or adjacent to the worksite. This requirement shall apply to the surface and hidden features of the property.

16.2. Receipt of public funds: Contract vendors and subcontractors will meet the requirements of ARS Title 34, Article 3, for eligibility to receive public funds.

16.3. Residency requirement: ARS §34-302 states that only persons who have been for not less than one year a bona fide resident of Arizona shall be employed in the performance in any public work. A public works contract is defined in ARS §34-321 as "*a contract to which the state or a political subdivision is a party involving the employment of laborers, workmen or mechanics in the construction, alteration or repair of public buildings or improvements.*" It shall be the responsibility of the contract vendor to comply with these laws, when applicable.

16.4. Restoration: The contract vendor shall repair, rebuild or otherwise acceptably restore any property on or adjacent to the worksite that was damaged during the course of work on the project. Such restoration shall be at the contract vendor's expense, and is not subject to reimbursement by the member.

16.5. Public building rules, regulations and codes: Construction work on public buildings shall be in compliance with the state fire code unless a fire code has been adopted by the city, town, county or fire district in which the building is located. Public buildings shall be constructed in compliance with applicable building, plumbing, electrical, fire prevention and mechanical codes adopted by the city, town, county or fire district in which the building is located. If a public building is built in an area that has not adopted local codes, the building shall be designed or constructed according to the state fire code adopted by the state fire marshal and the building, plumbing, electrical, fire prevention and mechanical codes that apply in the largest city in the county in which the building is located. Public buildings are subject to those codes that apply and are in effect when the building is designed or constructed and to the currently adopted codes when a building is found to be structurally unsafe, without adequate egress, or a fire hazard or are otherwise dangerous to human life. "Public Building" means a building or appurtenance to a building that is built in whole or in part with public monies (see ARS §34-461).

17. RETENTION

17.1. Retention requirement: Ten (10) percent of all contract payments shall be retained by the member as insurance of proper performance of the contract vendor. Contract vendor agrees to identify the amount to be retained on invoices to member for each progress payment.

When fifty (50) percent of the work is completed, one half of the amount retained shall be paid to the contract vendor if the contract vendor requests payment and if the member is satisfied with the progress of the work.

After the work is fifty (50) percent completed, no more than five percent of the amount of any subsequent progress payments shall be retained, unless the governing board of the member determines satisfactory progress is not being made, at which point ten percent retention shall be reinstated.

17.2. Substitute security: If the member and the contract vendor agree to a substitute security, the agreement must be in full compliance with R7-2-1104 (D, E, F, G), or 41-2576 as applicable to the purchasing member. If a substitute security is agreed to, the contract vendor must provide Mohave and the member with a signed and acknowledged waiver of any right or power of the obligor to set off any claim against Mohave, or the member in relationship to the security assigned.

18. RULES, REGULATIONS AND CODES

18.1. Certification of personnel regarding renovations, repair, and painting: Personnel performing renovations, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities constructed before 1978, shall comply with Part II, Environmental Protection Agency, 40 CFR Part 745, Lead; Renovation, Repair, and Painting program; Lead Hazard Information Pamphlet (http://www.epa.gov/).

18.2. Compliance: All work will be accomplished in conformance to current applicable OSHA safety requirements, and any additional federal, state, or local fire or safety requirement. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the contract vendor must inform the member of the situation. The contract vendor will not construct any device or produce any condition that intentionally violates a fire or safety code or safety standard.

18.3. Hazard notification: Contract vendor must advise member whenever work is expected to be hazardous.

18.4. Liens/serial numbers: All materials shall be free of liens. Bids must be for equipment on which the original manufacturer's serial number has not been altered in any way.

19. SURETY COMPANIES

Surety companies issuing bid bonds, performance bonds and/or payment bonds under this contract must be licensed by the Arizona Department of Insurance. Evidence of such license will be the name of the surety company as found in the license search database provided by the Arizona Department of Insurance (www.insurance.az.gov).

20. WORKSITE

20.1. Site access: The member shall provide an all-weather road to the site and prepare the site with room for construction equipment.

20.2. Site conditions: The condition of the site before start up shall be agreed upon between the member and the contract vendor and shall be written into the contract.

General Terms and Conditions and Standard Terms and Conditions for Construction Acceptance Form (Place after Tab 1c)

Signature on Page 2 certifies complete acceptance of the General Terms and Conditions and the Standard Terms and Conditions for Construction in this solicitation, except as noted below (additional pages may be attached, if necessary).

Check one of the following responses to the General Terms and the Standard Terms and Conditions for Construction:

X We take no exceptions/deviations to the General Terms and Conditions and the Standard Terms and Conditions for Construction.

(*Note: If nothing is listed below, it is understood that no exceptions/deviations are taken.)*

☐ We take the following exceptions/deviations to the General Terms and Conditions and the Standard Terms and Conditions for Construction. All exceptions/deviations shall be clearly explained. Reference the corresponding general terms and conditions and/or Standard Terms and Conditions for Construction that you are taking exceptions/deviations to. Clearly state if you are adding additional terms and conditions to the General Terms and Conditions and the Standard Terms and Conditions for Construction. Provide details on your exceptions/deviations below:

(*Note: All requested exceptions/deviations must be clearly explained. Reference the specific terms and conditions that you are taking exceptions/deviations to, detail any proposed substitute terms and conditions, and clearly demonstrate how Mohave and its membership will be better served by the substituted terms and conditions. Unacceptable exceptions/deviations shall remove your bid from consideration for award. Mohave shall be the sole judge on the acceptance of exceptions and Mohave's decision shall be final.)*

1d

Some Special Terms and Conditions specify placement of information in tabs other than Tab 1d as noted in the title above. Pay close attention to placement information (identified in bold text) as indicated in select Special Terms and Conditions.

1. BIDDER QUALIFICATIONS

It is preferred that the bidder has extensive knowledge and at least three (3) years' experience with the provision, installation and maintenance of the product, material, process, or services offered. Mohave reserves the right to accept or reject newly formed companies based solely on information provided in the bid and/or its own investigation of the company.

2. BID BONDS AND BONDING CAPACITY

2.1. Bid Bond: Bidder shall provide an original bid bond or alternate bid security in the amount of **$100,000**. The original bid bond/alternate bid security in the amount of $100,000 is to be mailed to Mohave Educational Services Cooperative, Inc. 625 E. Beale Street, Kingman, Arizona 86401 in a sealed envelope with IFB 20N-1112, offeror's name, mailing address, and IFB's due date and time clearly indicated on the envelope or package. The bid bond/alternative bid security shall be sent to Mohave's Kingman office by United States Postal Service Mail. The original bid bond/alternate bid security should be received by the IFB's due date and time.

A copy of the bid/bond/alternative bid security in the amount of $100,000 shall be included in your electronic bid response. ***Place after Tab 1f.***

Note: Bid security as a percentage of the bid value (e.g. – 10% of contract award) is not acceptable.

2.2. Bonding Capacity: The required minimum single job bonding capacity for this contract shall be $600,000. Bidder shall provide a letter from your bonding agency describing your current bonding capacity, as follows:

- Your single job bonding capacity.
- Your aggregate bonding capacity.
- An agent of your licensed bonding agency shall sign the letter.

If the original letter is not signed and/or has conflicting information, it shall render your bid nonresponsive. ***Place letter from bonding agency after Tab 1f.***

3. DELIVERY

3.1. Default in one installment to constitute total breach: Contract vendor shall deliver conforming materials in each installment or lot under this contract and may not substitute nonconforming materials. Mohave reserves the right to declare a breach of contract if contract vendor delivers nonconforming materials to any member under this contract.

3.2. Defective goods: Contract vendor agrees to arrange and pay for return shipment of goods that arrive in a defective or non-operable condition.

3.3. Delivery time: Failure to deliver any order within the time frame specified on the purchase order may result in cancellation of that purchase order.

3.4. Improper delivery: If the goods or tender of delivery fail in any respect to conform to this contract, member may reject the whole, accept the whole, or accept any commercial unit or units and reject the rest.

3.5. Restocking fees: A restocking fee may only be charged on products ordered and delivered to member's site. Restocking fees in excess of fifteen percent (15%) shall not be allowed. Contract vendor may waive restocking fees. Restocking and return shipping charges shall be identified in the price workbook.

4. FORM OF CONTRACT

4.1. Contract vendor contract documents: If a firm submitting a bid requires member to sign an additional agreement, a copy of the proposed agreement shall be included with the bid.

If awarded a contract, any additional contract vendor's documents shall not become part of Mohave's contract unless, and until, an authorized representative of Mohave reviews and approves them.

Contract vendor agrees to provide Mohave a copy of any agreements that are revised during the term of an awarded contract, prior to having the member sign the agreement.

4.2. Form of contract: The form of contract for this solicitation shall be the Invitation For Bid, the awarded bid(s), and properly issued member purchase orders referencing the requirements of the Invitation For Bid.

4.3. Parol evidence: The contract represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.

5. INSTALLATION

Installation shall be scheduled directly with member and be done in a reasonable amount of time. Installation shall be in accordance with the manufacturer's instructions and shall be accomplished by skilled and properly licensed individuals.

6. INSURANCE

6.1. Certificate: Evidence of the required insurance shall be provided with your bid by means of a current certificate of insurance with the coverage's as stated within the requirements below. Before any orders are processed under an awarded contract, contract vendor shall provide a certificate that names Mohave Educational Services Cooperative, Inc. as the certificate holder.

Certificate (or certificates if using multiple carriers) shall include, at a minimum, coverage for:

- General Liability
- Automobile liability
- Umbrella or Excess Liability
- Workers' Compensation

In addition, contract vendor must be willing to provide, upon request, identical certificate of insurance to any member using this contract. Contract vendor must also be willing, upon request, to add any member as an additional insured entity. Any costs for adding a member as an additionally insured entity shall be clearly identified in submitted contract pricing. If no pricing is identified, adding a member as an additionally insured entity shall be provided at no additional cost.

Provide evidence of current insurance coverage after Tab 2c.

6.2. Deductibles: Contract vendor shall pay the deductibles required by the insurance provided under this contract.

6.3. Liability insurance: Prior to commencing services under this contract, contract vendor shall procure and maintain during the life of this agreement, comprehensive general liability insurance, to include automobile liability, providing limits of an aggregate amount of not less than $2,000,000.

6.4. Scope of Insurance: Contract vendor's insurance shall provide adequate protection for contract vendor against damage claims which may arise from operations under this contract, whether such operations are by the insured or by anyone directly or indirectly employed by the insured. All insurance must be written by companies incorporated within the United States (exclusive of Territories or Possessions) and licensed or authorized to do business in Arizona.

6.5. Subcontractor insurance: Prior to commencing any work, any subcontractor shall procure and maintain at its own expense until final acceptance of the work, insurance coverage in a form and from insurers acceptable to the prime contractor. All subcontractors will provide workers' compensation insurance, which waives all subrogation rights against the prime contractor, member and Mohave.

6.6. Workers' compensation insurance: Contract vendor shall also procure and maintain during the life of this agreement, workers' compensation insurance for all of contract vendor's employees engaged in work under the contract. All workers' compensation insurance will be in compliance with Arizona state statute and evidenced by a certificate of insurance.

7. MAINTENANCE FACILITIES AND SUPPORT

It is preferred that each contract vendor should have maintenance facilities and a maintenance support system available for servicing products throughout Arizona, or the regions specified in their bid. Maintenance facilities shall have sufficient parts inventory to provide quality service on products sold to members. Trained and qualified technicians shall be available to cover all parts of the state, or specific regions within the state for regional bids. It is preferred that maintenance services are available within 24 hours. If a third party is used to provide maintenance or warranty work, bidder shall include details of any such arrangement in the bid.

8. MANUFACTURER SUPPORT

Bidders submitting bids as a manufacturer's representative must be able, if requested by Mohave, to supplement the bid with a letter from the manufacturer certifying that bidder is a bona fide dealer for the equipment offered, and that bidder is authorized to submit a bid on such equipment.

9. MEMBER AGREEMENTS

Some members may request the addition of specific requirements that would apply to products and services purchased under an awarded contract. These additional requirements shall be addressed through the use of an additional member agreement. In any agreement between the contract vendor and a member based on this contract, the terms and conditions of this contract shall prevail. Contract vendor and member must agree to all provisions in any additional agreements. If agreement requirements result in additional costs to the contract vendor, the contract vendor shall be entitled to direct reimbursement for these costs, in addition and separate from approved contract pricing. A copy of the additional member agreement shall accompany the member's purchase order.

10. PRICING

10.1. Administration fee: Mohave's 1% administration fee shall be included in bidder's contract price. Contract vendor shall not add the administration fee to approved contract prices. The value of trade-ins or rebates shall not affect the amount of administration fee paid to Mohave.

10.2. Application of pricing: In Mohave's purchase order review process, the date of a valid contract vendor's quote or the date Mohave receives a member purchase order will generally be used to determine the contract pricing that is in effect for that order. The date Mohave receives a member purchase order will only be used to determine the contract pricing that is in effect for an order when a contract vendor's quote does not exist or is invalid. However, other factors may apply.

10.3. Basis for pricing: Contract pricing under this IFB shall be based upon:

1. Percent of discount(s) off manufacturer's price list(s) or catalog(s);
2. Firm fixed price with economic price adjustment.
   - Economic price adjustments are defined as an unexpected price increase for services, raw materials or that are outside the control of the bidder.
   - Any contingencies for economic price adjustments shall be identified in the bid.
   - Mohave shall make the sole determination whether contingencies for economic price adjustments identified in your bid are appropriate under an awarded contract; or
3. A combination of the above.

The price included in a catalog, price list, schedule or other form that:

- Is regularly maintained by a manufacturer, distributor or contractor;
- Is either published or otherwise available for inspection by customers; and/or
- States prices at which sales are currently or were last made to a significant number of buyers for the product, material, process or services.

Established catalog price is referred to as manufacturer's price list, price list, or catalogs throughout this solicitation.

10.4. Initial catalogs/price lists: A copy of the latest edition of the price list or catalog to which discount shall be applied shall be included with bid. Include a copy of the latest edition of all applicable price lists or catalogs to which discount shall be applied with your bid. Submission of outdated price lists or catalogs may result in rejection of bid.

10.5. Fixed prices: Fixed price bids shall include prices for any and all items. Fixed prices shall be firm until each anniversary date of the contract, unless there is an occurrence of allowed contingencies for economic price adjustment outlined in the bid. If allowed contingencies for price adjustment occur, contract vendor shall submit a fully documented request for price adjustment to Mohave. The documentation must substantiate that any requested price increase was clearly unpredictable at the time of submittal and results from an increased cost to contract vendor that was out of contract vendor's control. Mohave shall review requests for fixed price adjustments to determine if the requested adjustments will be allowed. New fixed prices shall not apply until approved by Mohave. Price changes shall be a factor in contract renewal (contract modification).

10.6. Combination pricing: Bids for combination contracts shall clearly identify items covered by discount(s) and those with fixed prices. Prices for such contracts shall be adjusted as identified for the appropriate contract type above.

10.7. Decimal places: Pricing shall use a maximum of three (3) decimal places, unless specified otherwise.

10.8. Discounts: Submitted pricing shall clearly identify the percent of discount to apply to the price list. If multiple discounts apply, bidder shall clearly indicate the discounts and applicable materials or services. Bidder shall agree that there will be no reduction in discount(s) during the term of contract.

10.9. New catalogs/price lists: New price lists, workbooks and/or catalogs may be submitted for review throughout the term of the contract. Mohave will review new price lists, workbooks and/or catalogs to determine if the new prices or an alternative option is in the members' best interests. New price lists, workbooks and/or catalogs shall apply to the contract only upon approval from Mohave. New price lists, workbooks and/or catalogs found to be non-competitive at any time during the contract shall be grounds for terminating the contract. Any new catalogs/price lists shall meet requirements as stated in **Basis for pricing.**

10.10. Percent of discount as fixed price: Percent of discount bids that are not based upon published price lists or catalogs will be administered as fixed price contracts.

10.11. Price reduction and adjustment: Price reduction may be offered at any time during a contract and shall become effective upon notice of acceptance from Mohave. Price reductions (e.g., quantity discounts, time sensitive offers, bundles) must apply to all Mohave orders of similar size and scope. Price reductions limited to a single member are not acceptable. Special time-limited reductions are permissible under the following conditions: 1) reduction is available to all members equally; 2) reduction is for a specific time period, normally not less than thirty (30) days; 3) original price is not exceeded after the time-limit; and 4) Mohave has approved the new prices prior to any offer of the prices to a member. Mohave shall be the sole judge on the acceptance of price reductions under an awarded contract.

10.12. Reimbursement for transportation, mileage, lodging, meals and incidental expenses (M&IE): Contract vendor may charge for transportation, mileage, lodging and M&IE costs for employees that are required to travel to perform services at member site under this contract. An overnight stay is required for lodging reimbursement. Mileage reimbursement shall be at a specified rate. Transportation charges are separate from mileage, and may include airfare, car rental, etc.

Reimbursements under this section shall not exceed the rates listed in approved pricing, and shall not exceed the actual charge. To be eligible for reimbursement, estimated charges must be on the quote and approved by the member. Receipts for such reimbursements must be provided upon request from the member.

10.13. Travel/drive rates or mobilization: Contract vendor may charge for travel/drive rates or mobilization under this contract. Travel/drive rates are only applicable for out of area employees working under this contract. Charges under this section shall not exceed the rates listed in approved pricing. Such charges must be on the quote and approved by the member.

- Travel/drive rates may be an hourly rate or a per mile rate. If you are using a per mile rate, list your travel/drive reimbursement separately from mileage reimbursement.
- Mobilization charges are for the movement of equipment to the jobsite. Mobilization may be billed at a per mile rate or a flat rate.

11. SITE REQUIREMENTS

11.1. Cleanup: Contract vendor shall clean up and remove all debris resulting from their work as required or directed by member. Upon completion of the work, the premises shall be left in good repair and unobstructed condition.

11.2. Contract vendor employee fingerprinting: Contract vendor and its employees or subcontractors working under an awarded contract who are required to provide services on a regular basis at an individual school, shall obtain and present a valid Department of Public Safety fingerprint clearance card in accordance with ARS §15-512(H). The fingerprint card shall be issued pursuant to Title 41, Chapter 12, Article 3.1. Charges for such fingerprint checks will be the responsibility of the contract vendor, subcontractor or individual employee as determined by the member.

An exception to this requirement may be authorized in member's Governing Board policy, for persons who, "*as part of the normal job duties of the persons, are not likely to have independent access to or unsupervised contact with pupils.*"

Contract vendor and its employees or subcontractors shall not provide services on school district property until so authorized by the school district. Additionally, contract vendor shall comply with applicable governing board fingerprinting policy(ies) at the school district where services are provided.

11.3. Onsite Contract Vendor Responsibilities: The contract vendor is responsible for ensuring that all onsite work performed under this contract meets or exceeds the current OSHA standards, and is responsible for ensuring safe work performance of employees and subcontract vendors.

Contract vendor and its employees or subcontractors shall report accidents and incidents immediately to the member's responsible staff or its administration. The contract vendor is responsible for providing and obtaining appropriate medical and emergency assistance and notifying fire and law enforcement agencies, when necessary. Except for rescue and emergency measures, the scene of the accident or incident shall not be disturbed, and the operation shall not resume until authorized by the member's responsible staff or administration. The contract vendor

must assist and cooperate fully with the investigation of the accident/incident and ensure availability of all information, personnel and data pertinent to the investigation.

For preemptive purposes, contract vendor and its employees or subcontractors shall immediately report to the member's responsible staff or administration all areas of concern that could potentially lead to accident or injury.

11.4. Preparation: Contract vendor shall not begin a project for which member has not prepared the site. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

11.5. Registered sex offender restrictions: For work to be performed at an Arizona school, contract vendor agrees that no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contract vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the member's discretion.

11.6. Safety measures: Contract vendor shall take all reasonable precautions for safety on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contract vendor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to current Arizona law and standard practices to protect workers, general public, and existing structures from injury or damage.

11.7. Smoking: Persons working under the contract shall adhere to current local smoking policies.

11.8. Stored materials: Upon prior written agreement between the contract vendor and member, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials shall be provided to member prior to payment. Such materials shall be stored and protected in a secure location, and be insured for their full value by the contract vendor against loss and damage. Contract vendor agrees to provide proof of coverage and/or addition of member as an additional insured upon member's request. Additionally, if stored offsite, the materials shall also be clearly identified as property of member and be separated from other materials. Member shall be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.

Payment for stored materials shall not constitute final acceptance of such materials. The contract vendor shall be responsible for the protection of all material and equipment, whether stored on or off site. Title for all work, materials and equipment shall pass to the member only upon final inspection and payment of remaining job costs.

12. SUBCONTRACTORS

12.1. Awarding subcontracts: Bidder agrees that any subcontract competitively solicited by contract vendor will not be awarded solely upon membership or non-membership in a union or professional association.

12.2. Entering subcontracts: Subcontracts shall incorporate by reference the terms and conditions of the Mohave contract.

12.3. Prime contractor: Contract vendor will be considered a prime contractor and not a subcontractor. Neither Mohave nor the member will establish a contractual relationship with subcontractors.

12.4. Subcontracts: No subcontracts shall be entered into with any unlicensed party. Contract vendor must use subcontractors openly, include such arrangements in the bid, and certify upon request that such use complies with the current rules of the Arizona Registrar of Contractors and

the Arizona procurement rules and code. No subcontracting costs may be hidden in a cost bid to member.

12.5. Subcontractor payment: Contract vendor agrees to pay subcontractors within seven days after receipt of payment from member, as required in Arizona procurement rules and code. If contract vendor receives any interest monies for delay of payment from member, contract vendor will pay subcontractor the correct proportion of interest received. Complaints by subcontractor may be resolved as described in Arizona procurement rules and code. Failure to pay subcontractor for work faithfully performed and properly invoiced may result in the suspension or cancellation of this contract.

12.6. Use of subcontractors: Use of subcontractors shall permit work to be managed effectively and without delay and shall not cause any disturbance or interference to the progress of the project (e.g. engaging in strike, work stoppage, picketing, ceasing work due to a labor dispute). Subcontractor shall not employ anyone whose employment may be objected to by prime contractor, member or Mohave.

13. TERM OF CONTRACT AND EXTENSION

13.1. Contract period: It is Mohave's intent to award a multi-term contract for the specified product, material, process, or services. The initial contract term shall be for one (1) calendar year from the effective date of contract award. By mutual written agreement between Mohave and contract vendor, the contract may be extended for up to four (4) consecutive additional 12-month periods, beginning immediately after expiration of the prior term. However, no contract extension (contract modification) exists unless and until contract vendor is so notified by Mohave.

13.2. Contract extension (contract modification): Conditions for contract extension (contract modification) may include, but are not limited to: contract usage, satisfactory performance of services during the preceding contract term, ability to continue to provide satisfactory services, continued adherence to the contract requirements, and continued competitive prices for the materials and services provided under the contract. Mohave shall prepare a performance report for all contracts prior to issuing any extension (contract modification). This performance report shall use past performance information gathered by your assigned Contract Specialist. Past performance information shall be used when determining whether a contract receives an extension (contract modification).

13.3. Month-to-month extensions (contract modification): Mohave reserves the right to offer month-to-month extensions (contract modification), if that is determined to be in the best interests of members.

14. WARRANTY/QUALITY GUARANTEE

14.1. Extended warranties/service contracts: The contract vendor or a manufacturer may offer extended warranties available at extra cost for members that agree to a maintenance contract. The extended warranty contract shall be offered as a separate line item.

14.2. Fitness: Contract vendor warrants that any equipment or material supplied to Mohave or its members shall fully conform to all requirements of the contract, all representations of contract vendor, and shall be fit for all purposes and uses required by the contract.

14.3. Inspection: The warranties set forth in this section shall not be affected by inspection or testing of, or payment, for the product or materials to contract vendor by member.

14.4. Quality: Unless otherwise specified, contract vendor warrants that for a period of two (2) years after acceptance of the equipment or materials by member, they shall be:

- Of a quality to pass without objection in the industry or trade normally associated with them;
- Fit for the intended purpose(s) for which they are used;

- Of even kind, quantity and quality within each unit and among all units, within the variations permitted by the contract;
- Adequately contained, packaged and marked as the contract may require; and
- Conform to the written promises or affirmations of fact made by contract vendor.

14.5. Warranty requirements: Contract vendor warrants that all products, materials, processes and services delivered under this contract shall conform to the specifications. Unless stated otherwise, all equipment shall carry a minimum 24-month manufacturer's warranty that includes parts and labor. Contract vendor agrees to help member reach resolution in a dispute with the manufacturer over warranty terms. Any extended manufacturer's warranty shall be passed on to member without exception. Mohave reserves the right to cancel the contract if contract vendor charges member for a replacement part that the contract vendor received at no cost under a warranty.

14.6. Warranty work: The contract vendor shall perform all warranty work and remain available to the member should continue service be required after warranty obligations are met.

Special Terms and Conditions Acceptance Form
(Place after Tab 1d)

Signature on Page 2 certifies complete acceptance of the Special Terms and Conditions in this solicitation, except as noted below (additional pages may be attached, if necessary).

Check one of the following responses to the Special Terms and Conditions:

☒ **We take no exceptions/deviations to the Special Terms and Conditions.**

(*Note: If nothing is listed below, it is understood that no exceptions/deviations are taken.)*

☐ **We take the following exceptions/deviations to the Special Terms and Conditions. All exceptions/deviations shall be clearly explained. Reference the corresponding Special Terms and Conditions that you are taking exceptions/deviations to. Clearly state if you are adding additional terms and conditions to the Special Terms and Conditions. Provide details on your exceptions/deviations below:**

(*Note: All requested exceptions/deviations must be clearly explained. Reference the specific special terms and conditions that you are taking exceptions/deviations to, detail any proposed substitute special terms and conditions, and clearly demonstrate how Mohave and its membership will be better served by the substituted special terms and conditions. Unacceptable exceptions/deviations shall remove your bid from consideration for award. Mohave shall be the sole judge on the acceptance of exceptions/deviations and Mohave's decision shall be final.)*

1e

Scope of Work
(Place after Tab 1e)

1. DESCRIPTION

In order to gain economies of scale, Mohave is formally soliciting sources for construction of new outdoor sports courts. Or upgrade, repair or maintenance of existing outdoor sports courts. Outdoor sports courts include, but not be limited to tennis, basketball, pickleball, four square or volleyball as specified within this Invitation for Bid. These products/services are requested for Mohave's statewide membership of approximately 470 public agencies. However, other members may be added during the term of an awarded contract(s). A current list of all members can be found on Mohave's website at www.mesc.org. Contracts, in whole or in part, shall be awarded to bidder, or bidders, for an initial one (1) year term and four (4) potential one-year extensions (contract modification).

The scope of work/services and specifications define the quality and characteristics of the desired materials and application. They are based upon specifications for known acceptable manufacturers, processes, materials and/or of sports courts. The specifications are not intended to be exclusive or to restrict competition. Bidders may offer alternate solutions, including alternate manufacturers, which meet the quality and performance characteristics in the specifications. Mohave shall review such bids and be the final judge on the acceptance of any alternate solutions.

- **Arizona Registrar of Contractors License clarification:**
  - Specification 1.1.10 requires an awarded vendor to have and maintain a current Arizona Registrar of Contractors license in order to utilize subcontractors with a similar license. This information was confirmed via an email with the Licensing Department of the Arizona Registrar of Contractors. Bidders shall provide evidence that they have a current A General Engineering license or are in the process of being awarded a license by the Arizona Registrar of Contractors.
  - Bidders that are in the process of applying for a contractor's license, shall provide in Tab 2b a copy of the Arizona Registrar of Contractors application receipt with pending number included. An awarded contract will be contingent on successful award of an identified Arizona Registrar of Contractors License.

One contract vendor holds Mohave's current contract for the specified products and services. Activity under the contract from 2/1/2016 including year to date activity (as of the publication date of this IFB) is $5,316,750. This information is provided as an aid to bidders in preparing bids only. It is not to be considered a guarantee of volume under an awarded contract. The discount and pricing schedule shall apply regardless of the volume of business under the contract.

2. ESTIMATED TIMELINE OF EVENTS

Mohave has developed the following estimated timeline of events related to this formal solicitation. All dates are subject to change as required and at the sole discretion of Mohave.

EVENT	ESTIMATED DATE
Invitation for Bid Issued	October 15, 2020
Pre-bid Conference Held	Wednesday, October 28, 2020 Date at 10:00 a.m. (local AZ time) Pre-bid conference will be held using telephone conferencing. Please contact Mohave for reservation details.
Deadline for Questions	November 5, 2020 at 5:00 p.m. (local AZ time)
Published IFB Due Date and Time	November 12, 2020 at 3:00 p.m. (local AZ time)
Public Opening of Bids	November 12, 2020 at 3:00 p.m. (local AZ time)
Notice of Intent to Award (*estimated date only*)	January 4, 2021 NOTE: Notification will be sent by email to all awardee(s) and non awardee(s) on or before this date.
Execution of Contract(s) (*estimated date only*)	2/2/2021

3. SUBMISSION OF BIDS

3.1. Bids should provide straightforward, concise information that satisfies the requirements. Emphasis should be placed on conformity to the specifications and terms and conditions, as well as the completeness and clarity of the submittal content.

3.2. The bidder must submit a bid following information detailed in the *Instructions to Bidder and Checklist Form.*

3.3. A bid submitted in response to this solicitation shall be valid and irrevocable for one hundred twenty (120) days after specified due date and time.

4. CONTRACT TYPE

The term contract shall be a percent of discount off manufacturer's price list or catalog, fixed price, or a combination of both with indefinite quantities.

5. AWARD CRITERIA

Award(s) shall be made to the lowest responsive and responsible bidder(s) whose bid(s) conform in all material respects to the requirements and evaluation criteria below:

1) **Pricing Information:** Excel pricing workbook completed and uploaded to ProcureNow. Completed price schedules, additional requested price information, market basket pricing data (in searchable PDF format), pricing methodology, volume discount information, quick pay discount information, Pcard acceptance information, mobilization, travel description and bond methodology;

2) Bid and Acceptance, Terms and Conditions, Scope of Work and Specification Documents, Bid Bond, Bonding Capacity: *Bid and Acceptance Form, Confidential/Proprietary Submittal Form,* amendments (if any), *General and Special Terms and Conditions Acceptance Forms, Standard Terms and Conditions for Construction Acceptance Form,* Scope of Work, Specifications with exceptions/deviations noted, *Scope of Work and Specifications Acceptance Form,* original bid bond/alternate bid security, current single job and aggregate bonding capacity information, *Anti-Lobbying Certificate Form* and *U.S. Department of Agriculture Form AD-1048;*

3) Primary Vendor Information: Complete response to the Method of Approach and Qualification and Experience pages, evidence of current Arizona contractor's license, references (past performance information), certificate of insurance, financial information;

4) Supporting Contract Documents: Completed supporting contract documents, support and maintenance information, sample supplemental or end-user agreements, extended warranty or maintenance service plan information;

5) Additional Information: *Instructions to Bidder and Checklist Form,* descriptive literature, slicks and any other supporting documents.

References used for terms and conditions: (acronyms used in the solicitation are noted in bold font below):

Arizona Administrative Code **(A.A.C.)**: https://azsos.gov/rules/arizona-administrative-code

Arizona Executive Orders: https://azgovernor.gov/executive-orders

Arizona Revised Statutes **(ARS)**: https://www.azleg.gov/arstitle/

State of Arizona Accounting Manual - Travel Policy: Section IID - Section II **(SAAM)**: https://gao.az.gov/travel/welcome-gao-travel

Code of Federal Regulations **(CFR)**: www.ecfr.gov

Education Department General Administrative Regulations **(EDGAR)**: https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html

E-Verify: https://www.e-verify.gov/employers/enrolling-in-e-verify

Davis-Bacon: https://www.dol.gov/agencies/whd/laws-and-regulations/laws/dbra

Public Law: www.congress.gov/public-laws/116th-congress

Uniform Commercial Code as adopted by the State of Arizona **(UCC)**: https://www.azleg.gov/arsDetail/?title=47

United States Department of Housing and Urban Development **(HUD)**: www.hud.gov

Additional references and definitions used for specifications: (acronyms used in the solicitation are noted in bold font below):

American National Standards Institute **(ANSI)**: www.ansi.org

American Sports Builders Association **(ASBA)**: www.sportsbuilders.org

ASTM International **(ASTM)**: www.astm.org

Post-Tensioning Institute **(PTI)**: www.post-tensioning.org

SPECIFICATIONS

Purpose of specifications: Specifications are designed to enable bidder to satisfy a requirement for a product, material, process, or service. A specification may be expressed as a standard, part of a standard, or independent of a standard. No specification is intended to limit competition by eliminating items capable of satisfactorily meeting the requirements of the procurement. If bidder believes a specification is unnecessarily restrictive, bidder must notify Mohave prior to specified bid due date and time.

Partial bids: Mohave will consider partial bids for award of a contract.

Use of brand names: Brand names, trade names, model numbers, and/or catalog numbers may be used to describe the standard of quality, performance, and other characteristics needed to meet member requirements. Use of the name of a manufacturer, brand, make or catalog number is not intended to limit or restrict competition, nor does it restrict bidder from the submission of equivalent brands. However, Mohave reserves the right to decide whether alternatives are equivalent to the materials and equipment described in the solicitation. Mohave shall be the sole judge of equivalent quality, and Mohave's decision shall be final.

Compliance with specifications: Bidders shall offer products, materials, processes, or services they believe come closest to meeting specifications. The fact that a manufacturer, supplier or bidder chooses not to produce or provide product, material, process, or services to meet the specifications shall not be considered sufficient cause to adjudge the specifications as restrictive.

Deviations from specifications: Bidders will respond to each numbered specification by checking the appropriate "Comply" or "Deviate" box. "No Bid" items shall be marked as such in the appropriate "Deviate" box. Your exceptions/deviations must be clearly explained. Reference the specification that you are taking exceptions/deviations to, detail any proposed substitute language, and clearly explain how the exceptions/deviations meet or exceed specifications. Unacceptable exceptions/deviations shall remove your bid from consideration for award. Mohave shall be the sole judge on the acceptance of exceptions and Mohave's decision shall be final. Details for exceptions/deviations shall be listed by specification number on the *Scope of Work and Specifications Acceptance Form.*

	Specifications	Comply	Deviate*
1.1	**Sports Courts – General Requirements**		
1.1.01	Contract vendor shall provide single or multi-sports courts including but not limited to: badminton, basketball, bocce, futsal, hockey, handball, pickle ball, tennis, and volleyball.	X	
1.1.02	Contract vendor shall provide new construction, refurbishment, realignment, repair, resurfacing, and maintenance.	X	
1.1.03	New, refinished and realigned sports courts shall meet or exceed the recommended current applicable ASBA guidelines and all ASTM requirements for sports courts.	X	
1.1.04	Demolition and site construction services may be offered as part of a complete sport court project.	X	
1.1.05	Sport court refurbishment shall include, but not be limited to: reconditioning or replacement of site equipment, fencing, lighting, or surfacing.	X	
1.1.06	Sports courts realignment shall include, but not be limited to: removal of all or some site equipment, fencing, lighting or surfacing to facilitate the installation of new equipment, fencing, lighting or surfacing to realign the court to a new sport or multiple sports.	X	
1.1.07	Contract vendor shall perform the work in accordance with all current applicable federal, state and local laws, regulations, codes, or directives including, but not limited to: ACI, ADA, ASTM, ICC, and ISO. Current applicable specifications of MAG and PAG shall be used, or other Arizona counties or jurisdictions current applicable specifications.	X	

1.1.08	Design and engineering services may be included as part of a complete sport court project. A properly licensed engineer with the Arizona State Board of Technical Registration shall perform engineering services. Proof of registration shall be provided upon request.		X	
1.1.09	Contract vendor shall provide building permits or as requested by member, contract vendor shall supply all engineering specifications and/or drawings for the member to obtain local building permits. If providing permit include pricing in pricing workbook after Tab 3a.		X	
1.1.10	Contract vendor shall have and maintain, through the life of an awarded contract, the following Arizona contractor's licenses from the Arizona Registrar of Contractors: A – General Engineering. Provide copy(ies) of Arizona Registrar of Contractors license(s) after Tab 2b (See Primary Vendor Information – Qualifications and Experience, Question 6.		X	
1.1.11	Bidders that are in the license application process shall provide evidence on application. An awarded contract will be contingent on a successful award of an Arizona Registrar of Contractors license: A – General Engineering. Provide a copy of the Arizona Registrar of Contractors application receipt with pending number after Tab 2b (See Primary Vendor Information – Qualifications and Experience, Question 6).		N/A	
1.2	**Court Foundation and Slab Requirements**			
1.2.01	Concrete shall meet all current applicable and ACI and ASTM specifications and standards.		X	
1.2.02	Waterproof membrane shall be placed under the court's slab as required.		X	
1.2.03	Underground drainage shall meet engineering requirements for the installation site's soil conditions.		X	
1.2.04	In areas with soil conditions that may compromise the integrity of the court, the contract vendor shall not proceed with construction without the recommendations of an engineer whose licensing includes site construction services.		X	
1.2.05	Design and construction of the court shall include drainage and/or channeling of water from underground sources, landscaping or irrigation away from the court.		X	
1.2.06	Contract vendor may provide a root wall to prevent roots from spreading to the area beneath the court.		X	
1.2.07	Flush surface drains shall be installed between courts on multiple court systems when existing site construction or site constraints prevent the courts from being sloped properly.		X	
1.2.08	In building multiple side by side courts, contract vendor shall provide the required safety space between as specified in drawings or plans, and/or as specified in current applicable federal, state, or local building codes.		X	
1.2.09	Post-tensioned courts shall be constructed using, at minimum 4" of ABC compacted base material and 3,000 psi concrete at 5" thickness.		X	
1.2.10	Post-tensioned concrete courts shall use greased and sleeved cables on centers across both directions of the court that meet current applicable ASBA and/or PTI standards.		X	

1.2.11	The cables shall have tension plates on both ends leaving one end exposed until after the court is poured. After the concrete has been fully cured, the required amount of tension shall be placed on the cables. A final tension shall be required to meet current applicable PTI standards or per project engineer's specifications. The exposed cables shall be cut, and the exit holes patched with concrete.		X	
1.2.12	The court shall drain side-to-side or end-to-end, with no crowning. Court shall meet minimum slope and maximum slope as specified in plans and/or drawings.		X	
1.2.13	The court's slab shall be tested for proper leveling and high spots.		X	
1.2.14	After the court's slab has cured, or all repairs are completed and dry, a concrete primer and/or sealer shall be applied.		X	
1.2.15	Court areas shall be designed with a viewing area.		X	
1.2.16	A source for water and electricity may be included.		X	
1.3	**Sports Courts Playing Surface Requirements**			
1.3.01	Contract vendor shall apply as many leveling coats as required to meet current applicable ASBA standards. Coating materials and mixtures shall be applied per manufacturer's recommendations.		X	
1.3.02	Asphalt surfaces shall be prepared and coated as per the manufacturer's specifications.		X	
1.3.03	Sealer, silica sand and acrylic shall be applied per manufacturer's instructions.		X	
1.3.04	For heavy traffic areas, including recreational surfaces, and walk areas, a single-component water based acrylic urethane coating shall be applied.		X	
1.3.05	No coatings shall be applied to any cement base that has sealers or curing agents. Concrete surfaces shall be prepared as recommended by the manufacturer of the water based acrylic urethane coating.		X	
1.3.06	Paint for the white playing lines shall be mixed with rounded silica sand.		X	
1.3.07	Placement of playing lines shall be as specified and required by the ASBA.		X	
1.4	**Sports Courts Materials and Product Requirements**			
1.4.01	Net posts shall be set in aluminum or PVC sleeves in the concrete foundation.		X	
1.4.02	The net posts shall be powder coated over a strong, but hollow metal shaft that houses internal metal winding gears for the tightening of the net. Net posts shall be placed per current applicable ASBA standards.		X	
1.5	**Sports Courts Lighting Systems Requirements**			
1.5.01	Sports courts lighting system installation or alteration shall only be allowed as part of a total project for construction of new, refurbishment and realignment of existing sport courts.		X	
1.5.02	Sports courts lighting systems shall be as specified in drawings or plans and as approved by member.		X	
1.5.03	All sports courts lighting system installations shall be in compliance with manufacturer's recommendations and meet current applicable federal, state, and local building codes.		X	
1.5.04	Sports courts lighting poles shall be available in various diameters, heights and materials (e.g. aluminum or galvanized steel).		X	
1.5.05	Installed foundations and footings for sport court lighting poles shall be in compliance with lighting pole manufacturer's recommendations, engineering specifications and meet current applicable federal, state,		X	

	and local building codes. Contract vendor shall provide all engineering specifications and/or drawings requested by member.			
1.5.06	***Repair of contract vendor's previously constructed sports courts lighting systems is requested.*** Stand-alone repair or alteration of existing sport court lighting systems is not requested and shall not be allowed under an awarded contract.		X	
1.6	**Sports Courts Perimeter Fencing Requirements**			
1.6.01.	Sports courts perimeter fencing installations or alterations shall only be allowed as part of a total project for construction of new, refurbishment or realignment of existing sport courts.		X	
1.6.02.	Sports courts perimeter fencing shall be installed as specified in drawings or plans and as approved by member.		X	
1.6.03.	All installations shall be in compliance with manufacturer's recommendations and meet current applicable federal, state, and local building codes.		X	
1.6.04.	***Repair of contract vendor's previously constructed sports courts perimeter fencing is requested.*** Stand-alone repair or alteration of existing perimeter fencing is not requested and shall not be allowed under an awarded contract.		X	
1.7	**Sports Courts Maintenance**			
1.7.01	Contract vendor shall provide sports courts maintenance to include, but not be limited to: cleaning, power washing, court adjustments, component cleaning and lubrication, component replacement, sub-surface cleaning, replacement of netting, fence cleaning, and court line touch-up or replacement.		X	
1.7.02	Contract vendor shall be responsible for providing all cleaning supplies and equipment.		X	
1.7.03	Contract vendor shall dispose of all generated waste per current applicable federal, state, and local codes or regulations.		X	

***Exceptions/deviations must be listed on the *Scope of Work and Specifications Acceptance Form*. List the specification number for each exception/deviation.**

Scope of Work and Specifications Acceptance Form
(Place after Tab 1e)

Signature on page 2 certifies complete acceptance of the Scope of Work and SpecifIXcations in this solicitation, except as noted below (additional pages may be attached, If necessary).

Check one of the following responses to the Scope of Work and Specifications:

X **We take no exceptions/deviations to the Scope of Work and Specifications.**

(Note: If nothing is listed below, it is understood that no exceptions/deviations are taken.)

☐ **We take the following exceptions/deviations to the Scope of Work and Specifications. All exceptions/deviations shall be clearly explained. Reference the corresponding Scope of Work or Specifications that you are taking exceptions/deviations to. Provide details on your exceptions/deviations below:**

(Note: All requested exceptions/deviations must be clearly explained. Reference the specific language that you are taking exceptions/deviations to, detail any proposed substitute language, and clearly explain how the exceptions/deviations meet or exceed Scope of Work and Specifications. Unacceptable exceptions/deviations shall remove your bid from consideration for award. Mohave shall be the sole judge on the acceptance of exceptions/deviations and Mohave's decision shall be final.)

1f

Bid Bond
(Place after Tab 1f)

KNOW ALL MEN BY THESE PRESENTS:

THAT, General Acrylics, Inc.

(hereinafter called Principal), as Principal, and Merchants National Bonding, Inc.

a corporation organized and existing under the laws of the State of Iowa, with its principal office in the city of Des Moines, (hereinafter called the Surety), as Surety, are held and firmly bound unto Mohave Educational Services Cooperative, Inc. in the State of Arizona, (hereinafter called the Obligee) in the amount of $100,000 for payment whereof the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Sports Courts: New, Repair and Maintenance.

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter into such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

The prevailing party in a suit on this bond shall recover as part of his judgment such reasonable attorney fees as may be fixed by a judge of the court.

Witness our hands this 27th day of October, 2020.

General Acrylics, Inc.
PRINCIPAL SEAL

BY Jonnie Deremo - President

Merchants National Bonding, Inc.
SURETY SEAL

BY Andrew J. Paffenbarger, Attorney-In-Fact

Paffenbarger & Walden, LLC
1819 E. Morten Ave., Ste. 220, Phoenix, AZ 85020
AGENCY OF RECORD

MERCHANTS
BONDING COMPANY

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Alexander Paffenbarger; Andrew J Paffenbarger; Brain R Sawyer; Ronald G Heckel; Scott Wareing

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 2nd day of October , 2018

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this this 2nd day of October 2018 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

ALICIA K. GRAM
Commission Number 767430
My Commission Expires
April 1, 2020

Alicia K. Gram
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 27th day of October , 2020

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

POA 0018 (3/17)

P&W
THE BOND SOURCE

1819 E Morten Ave
Suite 220
Phoenix, AZ 85020
P 602-212-9160
F 602-212-9161

February 11, 2020

Re: General Acrylics, Inc.

To Whom It May Concern:

We are pleased to advise that General Acrylics, Inc. is a surety client of our agency. Our research on this firm, combined with their past performance, indicates a company well versed in the construction industry. Considered one of our finest accounts, we highly recommend General Acrylics, Inc. and look forward to providing bonds on their behalf.

Surety credit for General Acrylics, Inc. is provided through Merchants Bonding Company (Mutual), and we are currently prepared to provide bonds on single projects up to $5,000,000, with an aggregate limit of $15,000,000. We would look forward to issuing bonds within these guidelines subject to normal underwriting at the time of the bond request, as well as satisfactory review and approval of contract documents.

You understand, of course, any arrangement for bonds on behalf of General Acrylics, Inc. is a matter between contractor, surety, and agency, and we assume no liability to third parties or to you, if for any reason we do not execute said bonds. If you have any questions, or would like to further discuss the qualifications of this fine contractor, please contact me.

Sincerely,

Andrew J. Paffenbarger
Attorney-in-Fact
Merchants Bonding Company (Mutual)

1g

Anti-Lobbying Certification Form
(Place after Tab 1g)

ANTI-LOBBYING CERTIFICATION

Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

In accordance with the Byrd Anti-Lobbying Amendment 31 U.S. Code § *1352, 2 CFR § 200.450 and Federal Acquisition Regulation 52.203-11:*

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of this contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer in accordance with its instructions; and

(3) The undersigned shall require that the language of this certification be included in the award documents for all subcontract awards at all tiers and require that all recipients of subcontract awards in excess of $100,000 shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S. Code § 1352. Any person who makes expenditure prohibited under this provision or who falls to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

General Acrylics, Inc
(Firm Name)

PRESIDENT
(Signature)

Jonnie Deremo
(Print Name)

President
(Print Title)

11-12-2020
(Date Certified)

Anti-Lobbying Certification Form
(Place after Tab 1g)

General Acrylics

Since 1958
TRACKS, TENNIS COURTS
AND SYNTHETIC TURF
Licensed/Bonded

A copy of OMB standard form LLL; Disclosure of Lobbying Activities is not included as General Acrylics, Inc. has not lobbied (N/A)

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

AZ Contractors # ROC077085/ ROC034868 • NV Contractors # 0059476 • NM Contractors # 30964

1h

U.S. Department of Agriculture Form AD-1048
(Place after Tab 1h)

UNITED STATES DEPARTMENT OF AGRICULTURE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552(a), as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300, 180.355, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud privacy, and other statutes may be applicable to the information provided.

(Read Instructions on Page Two (IFB Page 16) Before Completing Certification)

A. The prospective lower tier participant certifies, by submission of this bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;

B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid.

General Acrylics, Inc — IFB 20N-1112

Organization Name — PR/Award Number or Project Name

Jonnie Deremo - President

Name(s) and Title(s) of Authorized Representative(s)

, PRESIDENT — 11.12.2020

Signature(s) — Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Instructions for Certification (for Form AD-1048)

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 (IFB page 15) in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person(s) to which this bid is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "bid," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this bid is being submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

TAB 2

2a

Primary Vendor Information
Method of Approach
(Place after Tab 2a)

Bidder shall respond to each item below. The information will be used to assist Mohave in evaluating the method of approach that a bidder would take regarding specific issues under an awarded contract. Do not use "boilerplate" answers. Respond to each item by specifically addressing the Mohave request. Failure to complete all questions may result in your bid being considered nonresponsive.

1. Bidder shall provide a project plan that describes how the bidder intends to implement the plan. This information shall include, but not be limited to:
    a. Account team structure (for a Mohave contract) and role which includes, but is not limited to description of sales contact process, account team support, and periodic account review processes;
    b. Communication process with Mohave and its members;
    c. Standard delivery time for products/services after receipt of purchase order;
    d. Training of installed equipment;
    e. Specific value-added services that may benefit members;
    f. Indicate how you will ensure your sales staff does not sell products or services that are not on contract; and
    g. Are there any limitations to the types of members that you will provide services to? If so, indicate what those limitations are.

2. Mohave is established to offer a cooperative purchasing program, which can be accomplished more efficiently and economically as a multi-entity operation.

    Efficiency and economy can be established through reduced bidding effort for members and vendors, management of a single contract, fewer price schedules to maintain, fewer contact persons, and using Mohave as an extension of members' purchasing departments. Additionally, it is Mohave's assertion that a statewide contract available to approximately 470 public agencies results in economies of scale and lower prices than those received by bidding individual contracts, especially, but not limited to small member agencies.

    Will a contract based upon your bid result in the efficiencies and economies described above?

    Yes X *No ___*

    If no, what efficiencies and economies would members receive from a contract based on your bid?

3. Do you anticipate using subcontractors for any portion of a project and/or for remote projects under an awarded contract?

    Yes_x *No ____*

    (Note: If you indicated "No", then the use of subcontractors under an awarded contract will not be allowed.)

    If "Yes" to Question #3, describe how you would use subcontractors to accomplish the work. Indicate if local subcontractors would be used. What is the maximum amount of work you would subcontract to complete a job?

    Most of the work in this contract is very specialized. Therefore, we would only be able to use Local subcontractors for demolition and excavation. The dollar amount will not matter

4. Indicate if your bid is regional or statewide: Regional _____ Statewide __X__

If you are providing a regional or county specific bid, that bid shall cover all members within that region or county.

Regardless if your firm is providing statewide or regional/county services, complete the chart below to include the following:

a. In the past three years, what percent of your Arizona business do you estimate was in each geographical area identified below?

b. Indicate which area(s) of the state that you will provide services under an awarded contract.

c. If you are awarded a contract with Mohave, which area(s) of the state will your sales force target?

Counties	a: Percentage of Business	b: Area(s) You Will Provide Services In	c: Area(s) Sales Force Will Target
Apache	14.2	Yes	Yes
Cochise	.4	Yes	Yes
Coconino	1.7	Yes	Yes
Gila	3.1	Yes	Yes
Graham	.03	Yes	Yes
Greenlee	0	Yes	Yes
La Paz	0	Yes	Yes
Maricopa	43.5	Yes	Yes
Mohave	5.2	Yes	Yes
Navajo	1.3	Yes	Yes
Pima	15.6	Yes	Yes
Pinal	3.7	Yes	Yes
Santa Cruz	.3	Yes	Yes
Yavapai	9.7	Yes	Yes
Yuma	1.4	Yes	Yes

Primary Vendor Information
Method of Approach
(Place after Tab 2a)

General Acrylics

Since 1958
TRACKS, TENNIS COURTS
AND SYNTHETIC TURF
Licensed/Bonded

Primary Vendor Information: Method of Approach

1. Prepare an Executive Summary that provides a short narrative description of what you are offering for this contract.

   See attached Executive Summary

2. Bidder shall provide project plan that describes how the bidder intends to implement the plan to Mohave and its members. This information will include, but not be limited to:

   - Account team structure and role which includes, but is not limited to description of sales contact process, account team support, and periodic account review processes;
   - Communication process with Mohave and its members;
   - Standard delivery time for products/services after receipt of purchase order; and
   - Any other value-added services that may benefit members. Provide specific information.

a. General Acrylics, Inc. has been servicing MES members since 1996 when we were awarded our first MES contract. Our account team consists of three representatives that each have customers across the state. Each representative contacts their members several times throughout the year to service their needs. Our production department handles scheduling and completion of projects sold.

MES members that contact General Acrylics are passed on to the appropriate representative who then takes care of their request.

When General Acrylics receives a purchase order from the member, the member is then contacted to schedule their project or to receive goods purchased. Most projects are started within two weeks of receipt of the purchase order. Many projects are scheduled prior to receipt of the purchase order to meet the member's requested completion dates.

We provide our customers with a better end product due to our fifty-six plus years' of experience and stability in the industry. We have the most experienced personnel in the state.

3. Indicate how you will ensure your sales staff does not sell products or services that are not on contract.

Our management meets with the sales staff annually to review our MES contract and items covered on the contract.

New members are trained on the complete MES process and items offered prior to taking on any member accounts. In general our team is taught to ask management if they are unsure of a unique request.

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

2b

Primary Vendor Information
Qualifications and Experience
(Place after Tab 2b & 2d – As Noted Below)

Bidder shall respond to each item below. The information will be used to assist Mohave in evaluating the qualifications and experience of the bidder. Do not use "boilerplate" answers. Respond to each item by specifically addressing the Mohave request. Failure to complete all questions may result in your bid being considered nonresponsive.

1. **Place after Tab 2b:** Prepare a summary of your firm, explaining the qualifications and experience necessary to provide the products/services in this solicitation as follows:
   - A short narrative description of what you are offering for this contract.
   - A *brief* history of your company that includes length of time in business, how long your company has provided the products/services you are bidding, and your firm's philosophy of doing business.
   - Provide written verification if bidder has recently purchased an established business or has proof of prior success in this business or a closely related business.
   - Provide information regarding your authorization to submit a bid for the specified products/services and confirm that you can provide the products/services if awarded a contract. Indicate if you are an authorized dealer for the products/services in the bid, or if you are a manufacturer of the products/services in the bid.
2. **Place after Tab 2b:** Indicate if any of the products you are offering received any awards or nominations for excellence. Indicate how the products offered in the bid meet applicable industry standards. List applicable awards and/or standards.
3. **Place after Tab 2b:** Identify any past or pending litigation or mediation involving products or services your firm has provided within the last five (5) years.
4. **Place after Tab 2b:** Indicate if your firm would qualify as a small or minority owned business. To qualify for ownership as a minority owned business, at least 51% of the firm's ownership must be held by a person, or persons, of a particular group (e.g., Woman owned, Hispanic owned, Native American owned). Proof of ownership is evidenced by the transaction privilege tax license or business privilege license for sole proprietorship; business privilege license and written partnership agreement for partnerships; or the Articles of Incorporation, Corporate By-laws and stock certificates for corporations.

   NOTE: Businesses have equal opportunity to sign up as a prospective bidder on Mohave's website. If small or minority owned businesses were signed up for a category selected for this solicitation, then they are included in the solicitation notification email list. The information on small and minority owned business are for informational purposes only and shall not be a factor in the evaluation. Mohave cannot ensure that affirmative steps have been used to assure small and minority owned businesses are awarded contracts, as funding sources of our members vary.
5. An online survey has been created to allow for the collection of reference information from Arizona public agencies where you have successfully accomplished work in the past five (5) years, for specific products/services similar to this solicitation. Provide the following link to Arizona public agencies who can provide reference information for your firm: **https://www.surveymonkey.com/r/20N1112**

   The above survey is now active and will remain active until the due date and time for this solicitation. It is recommended that you send this link to as many Arizona public agencies as you determine to be appropriate, in order to ensure that Mohave receives a minimum of three (3) completed surveys.

   If you cannot provide the link to three (3) Arizona public agencies, provide the link to other public agencies not located in Arizona. If you cannot provide the link to public agencies, do so with private business entities.

   Provide a list of Arizona public agencies, other public agencies or private business entities you have provided the link to:

Deer Valley USD	Mesa USD
City of Tempe	Town of Sahuarita
Town of Wickenburg	

Primary Vendor Information
Qualifications and Experience
(Place after Tab 2b & 2d – As Noted Below)

6. **Place after Tab 2b:** Provide a copy of current Arizona Registrar of Contractors license A General Engineering held by your company (Specification 1.1.10 requirement). If applicable, provide a copy of the Arizona Registrar of Contractors application receipt with pending number (Specification 1.1.11 requirement).

7. **Place after Tab 2b:** Provide a description of three (3) sport court projects that your firm has provided solutions to improve efficiency, value engineering, and/or decrease operating costs for your clients. For example, how has your firm developed preventative strategies and solutions for your clients? Describe the challenges and implementation of the solutions (what steps were taken to satisfy the customer). Provide the name of the public agency, type of project, year of the project, contact name and telephone number. This information is used to evaluate your firm's customer service solutions.

Number	Name of Public Agency	Year of the Project	Contact Name	Phone Number
1	Town of Wickenburg	2020	Herschel Workman	928-684-5451
Description of project #1, and what dispositions or solutions were used to benefit the customer.				
Built new tennis court to add another location for tennis players in the area. The benefits include added revenue for the Parks Dept, more physical activities for the youth, and this post tension slab will last over 50 years with minimal cracking				
2	Town of Sahuarita	2020	Laura Holbrook	520-237-2510
Description of project #2, and what dispositions or solutions were used to benefit the customer.				
Built 3 pickleball courts at Quail Creek Park. The challenge was working with the subcontractors that had to get their jobs done while meeting the deadlines for the court completion. The city was the GC but we coordinated schedules of everyone on site to get this done on time.				
3	Town of Fountain Hills	2020	Kevin Snipes	480-816-5178
Description of project #3, and what dispositions or solutions were used to benefit the customer.				
Additional amenity for the community at Four Peaks Park. Since the town only has 2 public basketball courts we designed a new full basketball court that fit in the space available and within budget. The design benefited the park without affecting the other park amenities.				

8. **Place after Tab 2d:** Provide a current letter from your financial institution indicating the range of credit available to your firm, (e.g., "credit in the low nine figures" or "credit line exceeding five figures"). Provide a current letter from your financial institution and/or officers of major suppliers, indicating confidence in your firm's stability and payment history. *These letters will only be used to evaluate bids and will not be made available to the public.*

   Bidders may submit current audited annual financial reports in lieu of letters from financial institutions. However, the annual financial reports must provide essentially the same information as requested from the letters. Bidders are encouraged to highlight the requested information in any audited annual financial report submitted in response to this solicitation. All financial information will be kept confidential.

General Acrylics

Since 1956
TRACKS, TENNIS COURTS
AND SYNTHETIC TURF
Licensed/Bonded

SHORT DESCRIPTION OF OUR OFFERINGS

General Acrylics, Inc. hereby respectfully submits pricing for the following items:

- Construction of new Post-Tensioned concrete tennis courts, play courts and all related items
- Post-Tensioned concrete court overlayment for reconstruction of older cracked courts
- Perimeter concrete curbing and root-wall protection
- Court maintenance, including inspection and washing
- Court drainage
- Complete hourly labor rates
- Design & engineering services
- Equipment for excavation, demolition and installation
- All necessary rental equipment rates & rental fencing costs
- All disposal fees, including on-site dumpster
- Construction of Sand Volleyball courts
- Repair and resurfacing of tennis and play courts
- Caulking & re-caulking of expansion joints in all types of courts
- Pro-Bounce© court overlayment system
- Pro-Court© synthetic court system
- Court surfacing for new or bare concrete tennis and play courts
- Tuff-Surf (urethane/acrylic surfacing of concrete courts)
- Cleaning and preparation of existing courts
- Removal of existing unstable coatings & diamond grinding of cracks

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

AZ Contractors # ROC077085/ ROC034868 • NV Contractors # 0059476 • NM Contractors # 30964

- Court striping, for tennis, basketball and other game lines
- Materials and supplies
- Complete line of tennis, basketball, and volleyball equipment and accessories
- Complete court lighting and electrical items, including; LED light fixtures, poles, mounting brackets, concrete light pole bases, wiring, conduit and other services
- Miscellaneous related items
- Mobilization, per diem and lodging / outside sixty (60) mile radius of General Acrylics location (Phoenix)
- Payment and performance bonding
- Pass-through costs as required by local codes

We are looking forward to a continued relationship with Mohave Educational Services Cooperative, and wish to thank you for the past 24 years of working with the entire staff there.

Sincerely,

GENERAL ACRYLICS, INC.

Jonnie Deremo, President

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

AZ Contractors # ROC077085/ ROC034868 • NV Contractors # 0059476 • NM Contractors # 30964

General Acrylics

Since 1958
TRACKS, TENNIS COURTS
AND SYNTHETIC TURF
Licensed/Bonded

Primary Vendor Information: Qualifications and Experience

Prepare a summary of your firm explaining the qualifications and experience necessary to provide the products/services in this solicitation.

- General Acrylics, Inc. was incorporated in 1958 in the state of Arizona. From 1958 to 1971 the corporation operated as a paving and utilities contractor under the name of W-H Construction, Inc. During the late 1950's and early 1960's a market emerged for tennis court construction and all-weather track construction. One of the principals of the company, Dick Hoover, already had a great deal of experience in this area having previously worked for two of the country's largest manufacturers of tennis court coatings and all-weather track surfaces. When employed at both Chevron and California Products/Zemco, Dick Hoover was involved with product development and training of contractors in the application of tennis court coatings and the installation of all-weather track surfaces. The company did very well in the construction of both tennis courts and running tracks. By 1972 the company had grown tremendously and the decision was made to split the company with Dick Hoover taking over the tennis court and track construction division. The company's name changed to General Acrylics, Inc. and Mr. Hoover remained the president and sole stockholder until 1987 when the current owner Jonnie Deremo, purchased 100% of the company and its stock.

  Since 1987, General Acrylics has grown almost every year. We have been Constructing, Re-constructing, surfacing and resurfacing all kinds of athletic courts in Arizona and throughout the Southwest. We were one of the first contractors to construct Post-tensioned courts in Arizona. We have constructed some of the first Pickleball courts in Arizona as well.

  General Acrylics, Inc. has been manufacturing Gameco Products for surfacing of courts since 1991. We pride ourselves on manufacturing the most up-to-date and innovative products for our harsh Arizona climate.

  General Acrylics has been a member of the American Sports Builders Association since 1999. To be a member of the association, a company must prove experience in Construction of Athletic facilities and courts. Membership in the ASBA reflects a commitment to excellence, as well as to the Industry itself.

  To go one step beyond, Jonnie Deremo, President in an ASBA Certified Tennis Court Builder and has held certification since 2000. A certified builder is required to stay educated in the Industry and must re-certify every three years. (see enclosed membership and certification)

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

In October, 2001 General Acrylics, Inc. moved and expanded its headquarters to 22222 North 22nd Avenue, in Phoenix, Arizona 85027. Our office, manufacturing plant and yard space cover an area of over an acre and a half. General Acrylics, Inc. has been contracting in Arizona since 1958, in New Mexico since 1990 and in Colorado since 1998.

Our philosophy at General Acrylics is to provide the best products and service at a fair price. Since 1987 General Acrylics, Inc. has become a leading tennis court and running track contractor in Arizona, Nevada and Colorado. This has been accomplished by providing reliable products and installations with quality, integrity, and customer satisfaction as our main goals. The quality of our installations, and service we provide along with the assurance of knowing that we will be available to honor our commitments, guarantees the best value to our clients. By following these goals and principles we have become respected, successful, and prosperous in our field of construction.

Following is a list of key people who are assigned to this contract:

- **Jonnie Deremo**, Owner and President of General Acrylics, Inc.
  Certified Tennis Court Builder
  Jonnie has been the President and owner of General Acrylics, Inc. for over 27 years. He acquired the company with one employee one work truck while being the manager, foreman, estimator, superintendent, and bookkeeper. The company has grown to the size we contract or subcontract over 9 million dollars of work each year. We constructed/resurfaced hundreds of tennis/basketball courts this year as well as ten tracks and eleven synthetic turf fields.

- **Mike Wickham**, Tennis Court, Running Track and Synthetic Turf Sales; with over 24 years' experience in sales and sales management within the construction industry.

- **Justin Fudge,** Sports courts, running tracks and synthetic turf sales with 5 years management and 10 years sales experience.

- **Kyle Watkins,** Sports Courts, Running Track and Synthetic Turf Sales; with 4 years' experience in sales and sales management within the construction industry.

- **Ken Wendel,** 20 years' experience in game court industry as a surface applicator and 3 years' experience in court design sales and management of multiple crews.

- **Brett Hamilton**, Estimator; has over 24 years' experience in estimating, construction and project management.

- **Tom Josephs**, Production Manager; Over 38 years' experience in the construction of sports courts and running tracks with more recent experience in synthetic turf fields.

- **Carl Matthes,** Project Superintendent, 3 years' experience in construction of courts, running tracks, and synthetic turf fields

- **Felix Meraz**, Project Superintendent, 10 years' experience in construction, 3 years as a commercial general contracting superintendent and 2 years as a sports court construction superintendent.

- **William Baldisseri**, Project Superintendent, 2 years' experience in construction of courts, running tracks, and synthetic turf fields.

- **Barry Edelstien**, Plant Manager; has over 24 years' experience with paints and tints used in the manufacturing of coatings.

- Our office staff consists of **Bonnie Moynihan,** Project Coordinator; **Jeff Robertson**, Controller; **Pam Lord**, Accounts Payables and Receivables.

General Acrylics, Inc. received its first contract with Mohave Educational Services in 1996, and we have enjoyed a very successful relationship with Mohave Educational Services since. It has been very satisfying to complete the number of projects with the different school districts and the many different scopes of work.

We are dealers for many of the Industries suppliers of which are leaders in the Industry and some are members of the ASBA.

- Douglas Industries, manufacturer of Athletic equipment and supplies
- LSI Industries, Manufacturer of court lighting
- NGI Sports, Manufacturer of Court ovelayment systems
- First Team, Manufacturer of Basketball equipment

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

AZ Contractors # ROC077085/ ROC034868 • NV Contractors # 0058476 • NM Contractors # 30964

AMERICAN SPORTS BUILDERS ASSOCIATION

2331 Rock Spring Road
Forest Hill, MD 21050

866.501.ASBA (2722)
410.730.9595
Fax: 443.640.1031

September 24, 2020

General Acrylics, Inc.
22222 N. 22nd Avenue
Phoenix, Arizona 85027

To Whom It May Concern:

This letter is to confirm that General Acrylics, Inc. is a member of the American Sports Builders Association (ASBA). The company has been a member since 1999 and is a member of the Builder Division. The definition of a Builder member is as follows:

Builder Members:

Any party who, for a period of two years, has been actively engaged in the building or surfacing of tennis courts, running tracks, indoor sports facilities, natural or synthetic turf sports fields or other athletic or recreational surfaces, or the installation of products or components related thereto, shall be eligible to be a Builder Member of the Association. Any applicant shall be deemed to meet the two-year requirement if a majority of the voting control of the applicant is held by individuals who at the time of the application are designated by the Association as a Certified Tennis Court Builder, a Certified Track Builder or a Certified Field Builder.

Membership Term: 10/01/2020 – 09/30/2021

If you have any questions, please contact me at cynthia@sportsbuilders.org or 866-501-ASBA.

Sincerely,

Cynthia M. Sanchez
Director of Meetings & Member Services

AMERICAN SPORTS BUILDERS ASSOCIATION

Through Its Certification Board

Has Conferred Upon

Jonnie Deremo

The Designation

CERTIFIED TENNIS COURT BUILDER



FOR EFFORTS TO RAISE THE PROFESSIONAL STANDARDS OF TENNIS COURT CONSTRUCTION AND FOR HAVING SUCCESSFULLY FULFILLED THE CONDITIONS OF ELIGIBILITY AND PASSED THE REQUIRED EXAMINATION.

In witness whereof we have set our hands on this 31st *day of* December, 2018

Certification expires: December 31, 2021

Executive Director

Certification Chairman

AMERICAN SPORTS BUILDERS ASSOCIATION

2331 Rock Spring Road
Forest Hill, MD 21050

866.501.ASBA (2722)
Fax: 443.640.1031

September 23. 2020

This will verify that Jonnie Deremo currently employed by General Acrylics, Inc. with offices at 22222 N. 22nd Ave., Phoenix, AZ 85027 has been awarded the designation of Certified Tennis Court Builder (CTCB) and Certified Track Builder (CTB) in the American Sports Builders Association (ASBA).

The Certified Builder Program was developed by the ASBA to help raise professional standards and to improve the practice of tennis court and running track construction. In order to obtain the certification designation, Mr. Deremo has passed a comprehensive written examination on construction and maintenance, and has fulfilled prescribed standards of experience to demonstrate a high level of expertise in construction.

The certification of Mr. Deremo was awarded in 2000, and remains in effect as long as the individual maintains the designation. The designation is maintained by compiling a prescribed number of activity points for work done within the industry, or by re-taking the exam. Certification is valid for three years following the original date and is maintained in three-year increments thereafter.

Certification is an individual designation, and is not awarded to, nor applicable to, the company for whom the certified individual works.

Should there by any question about the certification program, or about Mr. Deremo's designation, please contact ASBA at 866-501-ASBA (2722).

Douglas Industries, Inc.
3441 South 11th Avenue, Eldridge, IA 52748
Phone: 800-553-8907 Fax: 800-443-8907
www.douglas-sports.com

Date: 09/25/2020

To: General Acrylics, Inc.
RE: Authorized Dealer

To Whom It May Concern,

General Acrylics, Inc. is an authorized dealer of products supplied by Douglas Industries, Inc.

Please contact me with any questions.

Chris Rickerl
Vice President
Douglas Industries, Inc.

FRASUREREPS
SPORTS LIGHTING

September 25, 2020

To whom it may concern:

Re: Mohave Educational Services Cooperative

This is to confirm that General Acrylics Inc. is an authorized distributor for Frasure Reps Sports Lighting and LSI Industries. Frasure Reps / LSI provides indoor and outdoor tennis court lighting systems under the brand names CourtBlade and Zone. Our products have been used for recreational, club, and professional tennis facilities around the world for over 30 years. Our tennis court lighting products are made available to carefully selected, highly qualified distributors / installers. General Acrylics is a valued customer of Frasure Reps / LSI.

This authorized distributor designation is reviewed annually to insure continued compliance with Frasure Reps / LSI standards.

If you have any questions or comments or if I can provide additional information, please do not hesitate to contact me directly.

Regards,

Frasure Reps

Bruce A. Frasure

Bruce A. Frasure
Principal

NGI

ENGINEERED FOR SPORT

September 25, 2020

TO WHOM IT MAY CONCERN
RE: General Acrylics

This letter is to certify that General Acrylics of Phoenix Arizona is an authorized and certified dealer and installer for the NGI Sports tennis court overlay & crack repair/surfacing systems. In addition, General Acrylics is an authorized representative of NGI Sports' ProBounce and synthetic turf surfacing systems for grass courts..

Jonnie Deremo General Acrylics has been trained in the techniques concerning installation of NGI Sports surfacing systems. All NGI dealers are highly qualified, experienced and respectable firms. General Acrylics as an authorized dealer of NGI Sports' products is authorized to bid projects utilizing same.

Should any questions arise concerning the above please feel free to contact me direct at 1-775-544-6306 or the NGI Sports office at 1-800-835-0033.

Sincerely,

NGI SPORTS

CORY BRISBIN
Sales Manager – Western Division

/tmw

2807 Walker Road. Chattanooga TN. 37421. 800.835.0033 F: 423.499.8882

First Team®

9/25/2020

To whom it may concern,

General Acrylics listed below is an authorized dealer in good standing representing First Team products.

GENERAL ACRYLICS, INC.

22222 N. 22nd Avenue, Phoenix, AZ 85027

P: (602) 569-9377 F: (623) 298-1310

Toll: (800) 436-2279

www.generalacrylics.com

Thank you,

Jeff Roth

Jeff Roth
First Team, Inc.

AWARDS

U.S. Tennis Court and Track Builders Association

OUTSTANDING TENNIS FACILITY AWARD

In Recognition of Excellence in Design and Construction

Presented to

Outdoor Tennis Courts at Anthem Community Center
Anthem Community, Phoenix, AZ

December 6, 2000

New Construction: General Acrylics, Inc.

U.S. Tennis Court and Track Builders Association

OUTSTANDING TENNIS FACILITY AWARD

In Recognition of Excellence in Design and Construction

Presented to

Outdoor Tennis Facility at D.C. Ranch Country Club
Scottsdale, AZ

December 6, 2000

New Construction: General Acrylics, Inc.

U.S. Tennis Court and Track Builders Association

OUTSTANDING TENNIS FACILITY AWARD

In Recognition of Excellence in Design and Construction

Presented to

Tennis Facility at Moon Valley Country Club
Phoenix, AZ

December 9, 2002

New Construction: General Acrylics, Inc.

U.S. TENNIS COURT AND TRACK BUILDERS ASSOCIATION
CORPORATE SEAL
DELAWARE

U.S. Tennis Court and Track Builders Association

OUTSTANDING TENNIS FACILITY AWARD

In Recognition of Excellence in Design and Construction

Presented to

Outdoor Tennis Facility at J.W. Marriott Desert Ridge Resort & Spa
Phoenix, AZ

December 9, 2003

Construction: General Acrylics, Inc.



TENNIS DIVISION

2007 Distinguished Residential Tennis Facility

Presented to

Finley Residence

Builder: General Acrylics, Inc.

AMERICAN SPORTS BUILDERS ASSOCIATION



2007 Distinguished Outdoor Tennis Facility

Presented to

Mesa Community College

Builder: General Acrylics, Inc.

TENNIS DIVISION

AMERICAN SPORTS BUILDERS ASSOCIATION



TENNIS DIVISION

2008 Distinguished Outdoor Tennis Facility

Presented to

Pine Canyon

Construction: General Acrylics, Inc.

AMERICAN SPORTS BUILDERS ASSOCIATION



TENNIS DIVISION

2009 Distinguished Outdoor Tennis Facility

Presented to

Mountain View Tennis Center

Phoenix, AZ

Construction: General Acrylics, Inc.

Participated in Project: Douglas Industries

AMERICAN SPORTS BUILDERS ASSOCIATION



2013 Distinguished Residential Tennis Facility

Presented to

Welch Residence

Scottsdale, AZ.

Construction: General Acrylics, Inc.

Participated in Project: Douglas Sports Nets & Equipment; LSI Courtsider Sports Lighting

TENNIS DIVISION

AMERICAN SPORTS BUILDERS ASSOCIATION



COURTS & RECREATION DIVISION

2017 Outdoor Pickleball Facility of the Year

Presented to

Sun City Festival Pickleball Park

Buckeye, AZ.

Construction: General Acrylics, Inc.

AMERICAN SPORTS BUILDERS ASSOCIATION

Build it Right

Contractors License

LICENSE EFFECTIVE THROUGH 3/31/2021

STATE OF ARIZONA

Registrar of Contractors CERTIFIES THAT

General Acrylics Inc

CONTRACTORS LICENSE NO ROC 077085 CLASS A

General Commercial
General Engineering

THIS CARD MUST BE PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR

Scheduled Site Maintenance - 8:00 PM - 10:00 PM on Tues., Nov. 17, 2020

Online services will be temporarily unavailable due to scheduled site maintenance on Tues., Nov. 17, 2020, from 8:00 PM to 10:00 PM. We appreciate your patience.

COVID-19 - Registrar of Contractors Remains Open for Business - In-Person Services by Appointment Only Read More

Contractor Search

DISCLAIMER

The data supplied below is based on your specific request(s) and is correct to the best of our knowledge as of the date and time it was extracted from our data files. The information is provided without personal research or analysis. The data is subject to change on a daily basis. You may obtain additional public records related to any licensee, including dismissed complaints and nondisciplinary actions and orders, by contacting the ROC directly. If this information is required for legal purposes, you may request an affidavit or certified copies for a fee as specified in A.R.S. 32-1104A3. Please read our Standard Terms of Use at roc.az.gov/terms

Please note: The company or individuals listed on this license may hold other Arizona contracting licenses. To view information, status and complaint history for the past two years on other licenses held, go to the License Inquiry page and do a "Company Name and Personnel" search by entering the name of the company or individuals listed on the license.

DETAILS FOR
GENERAL ACRYLICS INC
LICENSE NUMBER ROC 077085
TUESDAY NOVEMBER 17, 2020 10:11:01 AM

Share this License or Send it to Yourself: Email | Save for Later

CONTRACTOR

NAME / ADDRESS / PHONE

General Acrylics Inc
22222 N 22nd Ave
Phoenix, AZ 85027-1903
Phone: (602) 569-9377

STATUS / ACTION

Active

LICENSE

CLASS & DESCRIPTION

General Commercial A General Engineering

ENTITY TYPE

Corporation

ISSUED / RENEWAL

First Issued: 1988-04-04
Renewed Through: 2021-03-31

This license is QP Exempt.

QUALIFYING PARTY & PERSONNEL

The Qualifying Party listed below is associated with this license. All other persons named, if any, are associated with the company. They are not all necessarily associated with this license.

Name: Jonnie Rae Deremo
Position: Officer

Name: Kenneth Gilbert Skiff
Position: Officer

Name: General Acrylics Inc
Position: Related Entity,

Name: General Acrylics Inc
Position: Related Entity,

COMPLAINT INFORMATION

*Complaints against this contractor are listed below. Complaints that were cancelled, resolved or settled without a corrective work order or dismissed are not included. Contact the **Registrar of Contractors at 602-542-1525 or toll-free statewide at 1-877-My AZROC (1-877-692-9762)** to identify the ROC office location you need to visit to view complete complaint documentation.*

Open Cases	CLOSED CASES	
	Disciplined Cases	Resolved / Settled Cases
0	0	0

BOND INFORMATION

How to collect from a license bond

Bond Type:	SURETY
Bond Number:	59BSBAI8552
Effective Date:	2000-03-17
Bond Company:	HARTFORD FIRE INSURANCE COMPANY
Amount:	$ 0.00
Paid:	$ 0.00
Available:	$ 75000.00
Status:	ACTIVE

CONTRACTOR SEARCH

To find out if a contractor's ROC license is current and see other information related to the license, enter their 6 digit license number or their name below. If searching by a person's name, be sure to use first then last - for example: 'John Doe' instead of 'Doe, John'. You can also use the ADVANCED SEARCH functions by clicking the gray "Advanced Search" button below to search by City, Classification, Status and more. Click to read the complete instructions.

General Acrylics, Inc. | SEARCH

Advanced Search
Export a List
Share Your Search
Clear

IF YOU EXPERIENCE A TECHNICAL PROBLEM, PLEASE CLICK HERE.

FOR A LIST OF PENDING LICENSE APPLICATIONS CLICK HERE

If you are looking for a complete list of our current contractors, we highly recommend using our Postino List page.
For a list of contractors with their full information, please submit a Public Records Request through our Public Records Request One-Stop page. Thank you.

ARIZONA Official Website of the State of Arizona

Contact Us

AZ ROC
1700 W. Washington St. Suite 105
Phoenix, Arizona 85007-2812
Phone: (602) 542-1525
Fax: (602) 542-1599
Find in Google Maps



#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, November 11, 2020 1:41:29 PM
Last Modified: Wednesday, November 11, 2020 1:44:51 PM
Time Spent: 00:03:21
IP Address: 170.177.3.66

Page 1: Mohave Educational Services Cooperative, Inc. Solicitation Reference Collection Survey

Q1

Your Contact Information:

Name	**Craig Burns**
Agency or Company	**Deer Valley Unified School District**
Position	**Grounds Supervisor**
Email Address	**craig.burns@dvusd.org**
Phone Number	**602-467-5041**

Q2

The vendor that you are providing vendor performance information for:

Company	**General Acrylics**
Address	**22222 N 22nd ave**
City/Town	**Phoenix**
State/Province	**AZ**
ZIP/Postal Code	**85027**

Q3

The ability to deliver products/provide services per your expectations:

(no label)	**10 - Very Satisfied**

Q4

The overall quality of products/services provided by the firm:

(no label)	**10 - Very Satisfied**

Q5

The ability of the firm to interact with your staff members:

(no label) **10 - Very Satisfied**

Q6

The close out process (invoicing, no unexpected fees):

(no label) **10 - Very Satisfied**

Q7

The ability of the firm to follow your rules, regulations and requirements:

(no label) **10 - Very Satisfied**

Q8

Your overall satisfaction based on performance (comfort in using this firm again in the future):

(no label) **10 - Very Satisfied**

Q9 **Yes**

Is the survey information you have provided related to the construction or maintenance of sports courts provided in this solicitation?

Q10 **Respondent skipped this question**

If you answered no to the previous question, please provide a description of the types of products/services that were provided by the firm you are providing a reference for.

Q11

Do you have any other comments, questions, or concerns?

They back there work!

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, November 12, 2020 7:52:09 AM
Last Modified: Thursday, November 12, 2020 7:54:23 AM
Time Spent: 00:02:13
IP Address: 72.214.222.66

Page 1: Mohave Educational Services Cooperative, Inc. Solicitation Reference Collection Survey

Q1

Your Contact Information:

Name	**Laura Hester**
Agency or Company	**Town of Sahuarita**
Position	**Parks and Facilities Manager**
Email Address	**lhester@sahuaritaaz.gov**
Phone Number	**520-237-2510**

Q2

The vendor that you are providing vendor performance information for:

Company	**Town of Sahuarita**
Address	**375 W Sahuarita Center Way**
City/Town	**Sahuarita**
State/Province	**AZ**
ZIP/Postal Code	**85629**

Q3

The ability to deliver products/provide services per your expectations:

(no label)	**10 - Very Satisfied**

Q4

The overall quality of products/services provided by the firm:

(no label)	**10 - Very Satisfied**

Q5

The ability of the firm to interact with your staff members:

(no label) **10 - Very Satisfied**

Q6

The close out process (invoicing, no unexpected fees):

(no label) **10 - Very Satisfied**

Q7

The ability of the firm to follow your rules, regulations and requirements:

(no label) **10 - Very Satisfied**

Q8

Your overall satisfaction based on performance (comfort in using this firm again in the future):

(no label) **10 - Very Satisfied**

Q9 **Yes**

Is the survey information you have provided related to the construction or maintenance of sports courts provided in this solicitation?

Q10 **Respondent skipped this question**

If you answered no to the previous question, please provide a description of the types of products/services that were provided by the firm you are providing a reference for.

Q11

Do you have any other comments, questions, or concerns?

General Acrylics is wonderful to work with. They are professional, friendly, and have a amazing product.

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, November 12, 2020 8:35:56 AM
Last Modified: Thursday, November 12, 2020 8:39:40 AM
Time Spent: 00:03:43
IP Address: 98.179.66.131

Page 1: Mohave Educational Services Cooperative, Inc. Solicitation Reference Collection Survey

Q1

Your Contact Information:

Name	**David McClure**
Agency or Company	**City of Tempe**
Position	**Landscape Architect**
Email Address	**david_mcclure@tempe.gov**
Phone Number	**480-245-8525**

Q2

The vendor that you are providing vendor performance information for:

Company	**GENERAL ACRYLICS, INC.**
Address	**22222 N. 22nd Avenue**
City/Town	**Phoenix**
State/Province	**AZ**
ZIP/Postal Code	**85027**

Q3

The ability to deliver products/provide services per your expectations:

(no label)	**10 - Very Satisfied**

Q4

The overall quality of products/services provided by the firm:

(no label)	**10 - Very Satisfied**

Q5

The ability of the firm to interact with your staff members:

(no label) **10 - Very Satisfied**

Q6

The close out process (invoicing, no unexpected fees):

(no label) **10 - Very Satisfied**

Q7

The ability of the firm to follow your rules, regulations and requirements:

(no label) **10 - Very Satisfied**

Q8

Your overall satisfaction based on performance (comfort in using this firm again in the future):

(no label) **10 - Very Satisfied**

Q9 **Yes**

Is the survey information you have provided related to the construction or maintenance of sports courts provided in this solicitation?

Q10 **Respondent skipped this question**

If you answered no to the previous question, please provide a description of the types of products/services that were provided by the firm you are providing a reference for.

Q11 **Respondent skipped this question**

Do you have any other comments, questions, or concerns?

#8

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, November 12, 2020 12:50:42 PM
Last Modified: Thursday, November 12, 2020 12:52:41 PM
Time Spent: 00:01:58
IP Address: 184.178.192.162

Page 1: Mohave Educational Services Cooperative, Inc. Solicitation Reference Collection Survey

Q1

Your Contact Information:

Name	**Kevin Snipes**
Agency or Company	**Town of Fountain Hills**
Position	**Parks Superintendent**
Email Address	**ksnipes@fh.az.gov**
Phone Number	**6027213908**

Q2

The vendor that you are providing vendor performance information for:

Company	**Town of Fountain Hills**
Address	**16705 E Avenue Of The Fountains**
City/Town	**Fountain Hills**
State/Province	**AZ**
ZIP/Postal Code	**85268**

Q3

The ability to deliver products/provide services per your expectations:

(no label)	**9**

Q4

The overall quality of products/services provided by the firm:

(no label)	**9**

Q5

The ability of the firm to interact with your staff members:

(no label)	**9**

Q6

The close out process (invoicing, no unexpected fees):

(no label)	**9**

Q7

The ability of the firm to follow your rules, regulations and requirements:

(no label)	**9**

Q8

Your overall satisfaction based on performance (comfort in using this firm again in the future):

(no label)	**9**

Q9

Is the survey information you have provided related to the construction or maintenance of sports courts provided in this solicitation?

Yes

Q10

If you answered no to the previous question, please provide a description of the types of products/services that were provided by the firm you are providing a reference for.

Respondent skipped this question

Q11

Do you have any other comments, questions, or concerns?

Respondent skipped this question

2c

2d

Note: **Confidential Financial Information Removed**

TAB 3

3a

3b

Pricing Information
Pricing Methodology, Volume Discounts, Quick Pay Discount and Pcards
(Place after Tab 3b)

Pricing Methodology Description

☐ Our pricing methodology is percent of discount off manufacturer's price list or catalog.

☐ Our pricing methodology is fixed pricing.

X Our pricing methodology is a combination of percent of discount off manufacturer's price list or catalog and fixed pricing.

Provide a description as to how your pricing will be managed under an awarded contract. If you are using fixed pricing, outline any contingencies for economic price adjustments. Mohave shall make the sole determination whether contingencies for economic price adjustments identified in your bid are appropriate under an awarded contract. (See **Basis for Pricing** in the Special Terms and Conditions.)

Our discounted pricing will be updated annually and shall not change more than 2% unless materials, labor, freight or fuel costs change by more than 2%. Discounts off of supplier/manufacturer pricing will be made in accordance with the annual pricing.

Volume Discount Description

Provide a description as to how your volume discount (if offered) will be managed under an awarded contract.

Volume discounts will be updated annually

Quick Pay Discount

Will you offer members a quick pay discount if payment is made within 10 or 20 days?

Yes X No _____ If yes, what is the discount for 10 days? _____ 20 days? 2%

Acceptance of Pcards for Payment

Will you accept Pcards as a method of payment? Yes X No _____

Pricing Information
Pricing Methodology, Volume Discounts,
Quick Pay Discount and Pcards
(Place after Tab 3b)

3c

Pricing Information
Mobilization, Travel Description and
Bond Methodology Description
(Place after Tab 3c)

Mobilization and Travel Description

If mobilization and/or travel rates are applicable, describe how they are calculated, and when they are necessary, (e.g. 50 miles from origin). Include information regarding what the mobilization and travel rates cover. (See **Pricing: Reimbursement for Transportation, Mileage, Lodging, Meals and Incidental Expenses** in the Special Terms and Conditions.)

All mobilization, mileage, drive/travel time, lodging, meals and incidental expenses will be Added to projects outside a 60 mile radius of General Acrylics, Inc. Phoenix location. Mileage Will be calculated per vehicle, per mile to & from project location. All drive/travel time will be Calculated per man, per hour traveling to & from project location. Lodging, meals, & incidental expenses will be calculated per day/night, per man.

Bond Methodology Description

Provide detailed information explaining the methodology to be used when bonds are applied to projects. Describe in detail the method your surety company requires you to use (e.g., bonds are applied before sales tax is applied, bonds are applied after sales tax is applied). Mohave will use this information to verify that your firm is consistently charging bonds in the same manner under an awarded contract.

Bonds will be applied to projects that meet or exceed the current state procurement Rules or when a member requests such.

Bonds will be calculated on contract pricing including sales taxes.

Pricing Information
Mobilization, Travel Description and
Bond Methodology Description
(Place after Tab 3c)

TAB 4

4a

Supporting Contract Documents
Firm Information, Order Processing, Individual Contact, and Customer Support Information
(Place after Tab 4a)

1. Contact information for firm's headquarters:

   Physical Address 22222 N. 22nd Ave., Phoenix, AZ 85027

   Mail Address, if different _____

   Main Phone Number (602) 569-9377

   Website www.generalacrylics.com

2. Contact information for firm's Arizona branch office:

   Physical Address 22222 N. 22nd Ave., Phoenix, AZ 85027

   Mail Address, if different _____

   Main Phone Number (602) 569-9377

   Website, if different _____

   Add additional contact information if firm has more than one Arizona branch office.

3. Contact information for purchase orders:

   Physical Address 22222 N. 22nd Ave., Phoenix, AZ 85027

   Email Address jderemo@generalacrylics.com

   Attention of Jonnie Deremo

4. Payment remittance address 22222 N. 22nd Ave., Phoenix, AZ 85027

   Attn: Pam Lord

   City Phoenix State AZ Zip 85027

   Telephone (invoice questions) (602) 569-9377

5. Provide Arizona Transaction Privilege (sales) Tax License Number: 07-368081-J

   Do you collect city, county and/or other local sales tax in Arizona? *Yes* X *No* ___

   If yes, please check one:

   ☐ Our combined state, city, county and/or other local sales tax rate is ___% (local rate).

   X The sales tax rate varies by the location (e.g. ship to rate). Provide additional information below:

   _____

   _____

Supporting Contract Documents
Firm Information, Order Processing, Individual Contact, and Customer Support Information
(Place after Tab 4a)

6. Contacts for Mohave:

Main Mohave representative contact: **Jonnie Deremo**
(Shall be the main point of contact for members and be responsible for member information requests.)

Title President Email address jderemo@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Contract Administrator contact: **Bonnie Moynihan**
(Shall be the main point of contact for contract information requests.)

Title Project Coordinator Email address bmoynihan@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Accounting contact: **Pam Lord**
(Shall be the main point of contact for accounting issues.)

Title Accounts Payable/Receivables Email address plord@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Open Order/Status Report contact: **Pam Lord**
(Shall be the main point of contact regarding open orders and status reports.)

Title Accounts Payable/Receivables Email address plord@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Audit contact: **Pam Lord**
(Shall be the main point of contact for audit requests and clarifications.)

Title Accounts Payable/Receivables Email address plord@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Reconciliation contact: **Pam Lord**
(Shall be the main point of contact for reconciliation report requests and/or clarifications and payment of administration fees.)

Title Accounts Payable/Receivable Email address plord@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Escalation contact: **Jonnie Deremo**
(Shall be the main point of contact when an issue needs to be escalated above the main contact and/or contract administrator for the IFB/contract. ***This contact shall be a different individual than those named for the contacts listed above.*** *)*

Title President Email address jderemo@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Marketing contact: **Jonnie Deremo**
(Shall be the main point of contact for providing marketing information for Mohave's website.)

Title President Email address jderemo@generalacrylics.com
Phone number 602-569-9377 Fax 623-298-1310

Supporting Contract Documents
Firm Information, Order Processing, Individual Contact, and Customer Support Information
(Place after Tab 4a)

Provide the requested customer support information for warranty and maintenance service offered by your firm, as applicable.

Do you provide warranty and maintenance for the items in the bid?
X **Yes,** the following is applicable to our bid. (If yes, please provide the information below.)

☐ **No,** the following is not applicable to our bid.

Describe the steps a member should take to activate a warranty and how they obtain warranty and maintenance service.

Member should call or write to General Acrylics, Inc. with a request. General Acrylics, Inc. will return call or respond in writing within Twenty-Four (24) hours. Any work needed will be scheduled with the owners.

Provide the name and address of the facility that will provide warranty and maintenance service, under an awarded contract. Additionally, provide a contact person and phone number for warranty and maintenance service. If there is more than one facility, provide the names and addresses for all facilities. Attach a list if necessary.

General Acrylics, Inc., 22222 N. 22nd Ave., Phoenix, AZ 85027

800-436-2279 / 602-569-9377

Jonnie Deremo 602-571-7710

Do you provide technical assistance via phone? X Yes ☐ No If yes, provide a phone number and contact.

What is your service response time for metropolitan areas (e.g., Phoenix, Tucson) and rural areas?

Jonnie Deremo 800-436-2279 / 602-569-9377

4b

Supporting Contract Documents
Sample Supplemental or End User Agreement(s)
(Place after Tab 4b)

Will members be required to sign supplemental or end-user agreements (sales, maintenance)? (See **4.1 Contract vendor documents** in the Special Terms and Conditions)

☐ Yes X No

If yes, review/revise your agreement(s) for terms that conflict with the Mohave terms and conditions. In addition, review for the following common issues:

Acceptable agreements **shall** include:

- Non-appropriations clause;
- Contract or agreement must be governed by the laws of the State of Arizona;
- Net payment is thirty (30) days.

Agreements **shall not** include:

- Terms beyond one year;
- Waiver of right for a jury trial;
- Requirement of upfront payment by member when purchase order is placed;
- Entire agreement language;
- Auto-renewal language.

Attach your reviewed/revised agreement(s). **Unacceptable agreement(s) may render your bid nonresponsive.**

4c

Supporting Contract Documents
Annual Maintenance Service Plan Information
(Place after Tab 4c)

Do you offer annual maintenance service plans? X Yes ☐ No

If yes, provide a summary of the plans here and/or copies of the plans after this page. Include pricing for annual maintenance service plans in your price schedule after **Tab 3a.** Place any supplemental end-user agreement forms, which include terms and conditions and/or member signature after **Tab 4b.**

Note: There will be no supplemental end-user agreement forms needed.

General Acrylics

Since 1958
TRACKS, TENNIS COURTS
AND SYNTHETIC TURF
Licensed/Bonded

MAINTENANCE OF EXISTING TENNIS AND PLAY COURTS

If a Customer would like to have their courts maintained on an annual, semiannual or a one time basis, General Acrylics will supply all Labor, Materials and Equipment necessary to complete the following;

- Inspect court(s) and send owner a written report of any repairs, equipment needs, safety concerns and any recommended services needed in the future for budget planning.
- Thoroughly wash court(s)
- Inspect net posts and nets; tighten nets to proper tension and lace to poles as needed.
- Spray any weeds growing in courts

Excludes: Any repairs, painting/surfacing, nets, and net posts

(602) 569-9377 • Fax (623) 298-1310 • Toll Free (800) 436-2279
22222 N 22nd Avenue • Phoenix, AZ 85027
www.generalacrylics.com

AZ Contractors # ROC077085/ ROC034868 - NV Contractors # 0058478 - NM Contractors # 30964

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Award Documents

20N-GAI3-0202
General Acrylics, Inc.

20N-GAI3-0202 Award Letter 2

20N-GAI3-0202 Bid and Acceptance Form 5

20N-1112 Signed Award Recommendation 6

20N-1112 Evaluator Agreements 9

20N-GAI3-0202 Federal and State Excluded Parties Documents 12

Click section title to be taken directly to that section.

4/5/18 EH

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NOTIFICATION OF AWARD LETTER

December 14, 2020

Sent this day via email to jderemo@generalacrylics.com

Jonnie Deremo, President
General Acrylics, Inc.
22222 N. 22nd Avenue
Phoenix, AZ 85027

Congratulations, General Acrylics, Inc's response has been awarded a contract under IFB 20N-1112. Attached is a copy of the Mohave signed *Bid and Acceptance Form*. Important notes and action items regarding the award are listed on the following pages. **Some action items contain important deadlines noted in bold font. Be sure to meet the requests and/or requirements on or before the deadlines noted.**

Your organization is bound by the terms of this contract; **only items specifically requested in this solicitation and awarded in your response to this solicitation will be authorized/allowed.**

Advise your Mohave customers to make purchase orders out to General Acrylics, Inc. In the event you receive a purchase order from a member that does not contain the "MESC REVIEWED" stamp, it should be faxed to (928-718-3232), or emailed (orders@mesc.org) to Mohave for review.

Do not perform any work or provide any products until you receive an "MESC Reviewed" purchase order.

We highly recommend having your staff review our vendor information pages at (http://www.mesc.org/resources-brochures) to learn more about working with Mohave. Especially helpful is the Vendor Handbook.

The procurement file for IFB 20N-1112 shall be made available for public inspection on December 14, 2020.

Please check all the entries on the contract record attached. You may make additions or revisions to the description (40 words or less), contact persons, contact information, or other information about your contract. Email back any changes as soon as possible to mike@mesc.org.

Your contract number is 20N-GAI3-0202 and will take effect on February 2, 2021.

If you have any questions regarding your new contract, please call me at (928) 718-3203. We look forward to working with you and your company in the future.

Michael Nentwig, CPPB
Contract Specialist I

NOTES ON AWARD FOR: General Acrylics, Inc.

- Please remind the member of their responsibility to independently verify that quotations and purchase orders comply with the terms of the award of a contract or procurement. This responsibility is set by rule and statute and cannot be changed by Mohave. Members can go to (service.mesc.org/PVF/plist.php) to assist in meeting this due diligence responsibility.
- Financial information included under Tab 2 of your response will be kept confidential.
- All products must be priced using contract pricing approved by Mohave.
- All quotes shall include your contract #20N-GAI3-0202.
- **Promotional Pricing (temporary pricing reductions):** Your contract includes terms and conditions that allows your firm to offer temporary pricing reductions. A Promotional Pricing Offer allows you to provide products and services to members at a reduced cost for a limited time basis. Promotional pricing may increase your contract usage and exposure to members. Mohave encourages promotional pricing under the awarded contract to provide additional value to members. Promotional pricing requests are typically reviewed and approved the same day as submitted. Some reminders regarding pricing reductions:
    - Promotional Pricing may be offered at any time during a contract and shall become effective upon notice of acceptance from Mohave.
    - Promotional Pricing (e.g., quantity discounts, time sensitive offers, bundles) must apply to all Mohave orders of similar size and scope.
    - Promotional Pricing limited to a single member are not acceptable.
    - Special time-limited reductions are permissible under the following conditions: 1) reduction is available to all members equally; 2) reduction is for a specific time period, normally not less than thirty (30) days; 3) original price is not exceeded after the time-limit; and 4) Mohave has approved the new prices prior to any offer of the prices to a member.
- Michael Carter, CPPB will be the Contract Specialist assigned to your Mohave contract. Send requests for pricing updates or contractual inquiries to Michael Carter, CPPB - michael@mesc.org after the contract effective date of February 2, 2021. *All future pricing updates must be electronic. Updates on the original Excel workbooks are preferred. Similar formats in Word or PDF are acceptable.*
- Do not provide any goods/services until you receive a Mohave reviewed purchase order.
- Quick payment discounts must be approved by Mohave before being offered to members and must be available equally.
- Order cycle overview:
    1. Member forwards purchase orders to Mohave. Vendor is General Acrylics, Inc.
    2. Mohave reviews and emails member order with "*MESC Reviewed*" stamp, to General Acrylics, Inc.
    3. General Acrylics, Inc. provides product/services.
    4. General Acrylics, Inc. invoices member.
    5. Member pays General Acrylics, Inc.
    6. General Acrylics, Inc. sends Usage and Reconciliation Report to Mohave.
    7. General Acrylics, Inc. remits administration fee monthly, based on invoices paid.
    8. Mohave audits selected purchases.

REQUIREMENTS/ACTION ITEMS FOR THE AWARD:

- You agreed to provide a Reconciliation Report detailing activity under the contract, and payment for Mohave administration fees for invoices paid in the previous month. Your report is due on the 10th of each month. **Mohave's Audit Specialist will contact you and provide you with a sample report, based on reports provided under contract 15O-GAI3-0201.**
- If no invoices were paid under the contract in the previous month, you may send an email to adminreport@mesc.org advising of no sales to report for the month.

NOTES ON AWARD FOR: General Acrylics, Inc.

- Because you have an existing Mohave contract, we want to address how to properly report invoices on your monthly reconciliation reports because it may be necessary to submit two separate reports until all old contract purchases are closed:
    - Line-item purchase orders that remain open under 15O-GAI3-0201 should be reported on 15O-GAI3-0201reconciliation reports until completion of the project.
    - Blanket purchase order invoices with a ship date prior to, or on February 1, 2021 should be reported on the 15O-GAI3-0201 reconciliation report.
    - New purchase orders issued under the 20N-GAI3-0202 contract should be reported under 20N-GAI3-0202 reconciliation reports.
    - Blanket purchase order invoices with a ship date after February 1, 2021 should be reported on the 20N-GAI3-0202 reconciliation reports.
- Administration fee payments should be mailed to:

  Mohave Educational Services
  625 E. Beale St.
  Kingman, AZ 86401
- In order to assist members with new contract award notices, Mohave will be releasing your contract award information to the members prior to February 2, 2021. Information regarding your contract award will be posted to our website and will be made available in our product vendor finder. Pricing from your awarded contract will also be made available to our members. All of this information will be accessible by our members before February 2, 2021. You may provide quotes to members for this contract. However, it will be your responsibility to inform members the contract is not effective until February 2, 2021, and members should not be processing purchase orders until that date. Acting on purchase orders (delivering products or services) prior to February 2, 2021 **is a violation of the contract.** Please ensure that your staff is aware of the effective date February 2, 2021, in order to avoid contract confusion.
- We feature marketing information about your current contract in the product vendor finder on our website. Please visit our website (www.mesc.org) and go to the "All Products/Vendors" under the "Contracts & Solicitations" menu. Find your company from the list and click on your name. Once on your company information, review the "About Vendor" section of the "Overview." Confirm in writing if that information is still accurate, or if changes need to be made. Mohave reserves the right to edit information for content or length. **Email this information to mike@mesc.org no later than January 7, 2021.**

Bid and Acceptance Form
(Place after Tab 1a)

IFB 20N-1112
Sports Courts: New, Repair and Maintenance

To Mohave Educational Services Cooperative, Inc.:

The undersigned hereby certifies understanding and compliance with the requirements in all terms, conditions, specifications and amendments. Bidder further agrees to furnish materials and/or services in compliance with all terms, conditions, specifications and amendments in the solicitation and any written exceptions in the bid.

Federal Employer Identification Number 86-0261915

Company Name General Acrylics, Inc.

Address 22222 N. 22nd Avenue City Phoenix State AZ Zip 85027

Telephone Number 602-569-9377

The *Bid and Acceptance Form* should be submitted with a signature of the person authorized to sign the bid. The person signing the bid shall initial erasures, interlineations, or other modifications in bid. Failure to sign the *Bid and Acceptance Form*, or to make other notations as indicated, may result in rejection of bid.

Authorized Signature

Printed Name Jonnie Deremo Title President

Primary Email jderemo@generalacrylics.com Alternate email jfudge@generalacrylics.com

*Note: The primary email address will be used for all communication from Mohave regarding your response to this solicitation. Provide an alternate email address that will be used **only** if the primary email address is not valid.*

The contract vendor shall not commence any billable work or provide any material or service under this contract unless and until contract vendor receives a purchase order with Mohave's review noted.

Acceptance of Bid and Contract Award (Mohave Only)

Your Bid is Hereby Accepted:

As an awarded contract vendor, you are now bound to sell the materials and/or services offered to and accepted by Mohave in accordance with the solicitation, including all terms, conditions, specifications, amendments and any accepted written exceptions. Your firm has been awarded all products and services, unless noted in your Notification of Award Letter.

This contract shall be referred to as Contract Number 20N-GAI3-0202

Awarded this 14 day of December 2020.

This contract shall be effective the 2 day of February 2021.

Anita S. McLemore, C.P.M., Executive Director
Mohave Educational Services Cooperative, Inc.

MOHAVE
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Date: December 14, 2020

To: Anita S. McLemore, C.P.M., Executive Director

Through: Nancy Colbaugh, CPPB, Contracts Manager

From: Michael Nentwig, CPPB, Contract Specialist I

Subject: Award Recommendation for IFB 20N-1112, Sports Courts: New, Repair and Maintenance

On November 12, 2020, Mohave received two responses to IFB 20N-1112. In accordance with the procurement rules and the solicitation, the basis of award was lowest responsive and responsible bidder(s). Market basket pricing was used to develop a ranking from lowest to highest price for the bids determined to be responsive and responsible. The market basket pricing was reviewed against the submitted price lists to verify accuracy of the market basket pricing for both bidders.

General Acrylics, Inc. and Pacific Tennis Courts of AZ LLC were determined to be responsive and responsible. They provided the following required information:

- Bid security of $100,000
- Evidence of required licenses
- Evidence of required bonding capacity
- Provided the majority of the products and services requested in solicitation
- Demonstrated necessary experience
- Demonstrated ability to adequately service members statewide for all products and services offered

General Acrylics, Inc. demonstrated the ability to effectively, and efficiently meet the needs of all our members' requirements for construction, upgrade, repair or maintenance of outdoor sports courts. Award is recommended to the responsible and responsive bidder with the lowest cost, based upon the market basket referenced below. Market basket pricing from the responsible and responsive bidders follows:

Market Basket 1	
General Acrylics, Inc.	**$46,395.35**
Pacific Tennis Courts of AZ LLC	**$84,694.20**

Market Basket 2	
General Acrylics, Inc.	**$14,442.31**
Pacific Tennis Courts of AZ LLC	**$25,188.85**

Market Basket 3	
General Acrylics, Inc.	**$18,978.88**
Pacific Tennis Courts of AZ LLC	**$29,995.00**

- General Acrylics, Inc. was the overall lowest bidder for all three market baskets. General Acrylics, Inc. bid new construction, repair and maintenance of outdoor sports courts. General Acrylics, Inc. has on staff an American Sports Builders Association certified Tennis Court Builder and is the manufacturer of Gameco court surfacing products. General Acrylics, Inc. offered volume discounts for court repair, resurfacing, construction or re-construction. They have an extensive base of installed and maintained sports courts in Arizona. They provide Douglas Sports Equipment, Frasure / LSI Sports Lighting, NGI and First Team. Their current bonding capacity is $15,000,000.

The bidder recommended for award is not listed on the United States General Services Administration's Excluded Parties List, or on the Arizona Department of Administration Excluded Parties List.

The current contract under IFB 15O-1106 expire on February 1, 2021. It is recommended the award under IFB 20N-1112 take effect on February 2, 2021.

It is the recommendation of the evaluation committee that contracts be awarded to General Acrylics, Inc. for Sports Courts: New, Repair and Maintenance.

Not recommended for award (Below the cutoff for least number of vendors determined necessary to meet the members' requirements.)

Pacific Tennis Courts of AZ LLC – This firm's market basket sample jobs were higher than the bidder recommended for award. There were no apparent price requirements to substantiate award of an additional bid.

Approval of the #20N-1112 award as recommended:

Signature: Nancy L. Colbaugh Date: December 14, 2020
Nancy Colbaugh, CPPB
Contracts Manager

Signature: Anita S McLemore Date: December 14, 2020
Anita S. McLemore, C.P.M.
Executive Director

Scheduled Site Maintenance - 8:00 PM - 10:00 PM on Tues., Dec. 15, 2020

Online services will be temporarily unavailable due to scheduled site maintenance on Tues., Dec. 15, 2020, from 8:00 PM to 10:00 PM. Online services will also be unavailable between 5:00 PM on Dec. 21, 2020 through 8:00 AM Dec. 24, 2020 for additional site maintenance. We appreciate your patience.

COVID-19 - Registrar of Contractors Remains Open for Business - In-Person Services by Appointment Only Read More

Contractor Search

DISCLAIMER

The data supplied below is based on your specific request(s) and is correct to the best of our knowledge as of the date and time it was extracted from our data files. The information is provided without personal research or analysis. The data is subject to change on a daily basis. You may obtain additional public records related to any licensee, including dismissed complaints and nondisciplinary actions and orders, by contacting the ROC directly. If this information is required for legal purposes, you may request an affidavit or certified copies for a fee as specified in A.R.S. 32-1104.A3. Please read our Standard Terms of Use at roc.az.gov/terms

Please note: The company or individuals listed on this license may hold other Arizona contracting licenses. To view information, status and complaint history for the past two years on other licenses held, go to the License Inquiry page and do a "Company Name and Personnel" search by entering the name of the company or individuals listed on the license.

DETAILS FOR

GENERAL ACRYLICS INC

LICENSE NUMBER ROC 077085

MONDAY DECEMBER 14, 2020 09:12:22 AM

Share this License or Send it to Yourself: Email | Save for Later

CONTRACTOR

NAME / ADDRESS / PHONE

General Acrylics Inc
22222 N 22nd Ave
Phoenix, AZ 85027-1903
Phone: (602) 569-9377

STATUS / ACTION

Active

LICENSE

CLASS & DESCRIPTION

General Commercial A General Engineering

ENTITY TYPE

Corporation

ISSUED / RENEWAL

First Issued: 1988-04-04
Renewed Through: 2021-03-31

This license is QP Exempt.

QUALIFYING PARTY & PERSONNEL

The Qualifying Party listed below is associated with this license. All other persons named, if any, are associated with the company. They are not all necessarily associated with this license.

Name: Jonnie Rae Deremo
Position: Officer

Name: Kenneth Gilbert Skiff
Position: Officer

Name: General Acrylics Inc
Position: Related Entity,

Name: General Acrylics Inc
Position: Related Entity,

COMPLAINT INFORMATION

*Complaints against this contractor are listed below. Complaints that were cancelled, resolved or settled without a corrective work order or dismissed are not included. Contact the **Registrar of Contractors at 602-542-1525 or toll-free statewide at 1-877-My AZROC (1-877-692-9762)** to identify the ROC office location you need to visit to view complete complaint documentation.*

Open Cases	CLOSED CASES	
	Disciplined Cases	Resolved / Settled Cases
0	0	0

BOND INFORMATION

How to collect from a license bond

Bond Type:	SURETY
Bond Number:	59BSBAI8552
Effective Date:	2000-03-17
Bond Company:	HARTFORD FIRE INSURANCE COMPANY
Amount:	$ 0.00
Paid:	$ 0.00
Available:	$ 75000.00
Status:	ACTIVE

CONTRACTOR SEARCH

To find out if a contractor's ROC license is current and see other information related to the license, enter their 6 digit license number or their name below. If searching by a person's name, be sure to use first then last - for example: 'John Doe' instead of 'Doe, John'. You can also use the ADVANCED SEARCH functions by clicking the gray "Advanced Search" button below to search by City, Classification, Status and more. Click to read the complete instructions.

General Acrylics, Inc. | SEARCH

Advanced Search
Export a List
Share Your Search
Clear

IF YOU EXPERIENCE A TECHNICAL PROBLEM, PLEASE CLICK HERE.

FOR A LIST OF PENDING LICENSE APPLICATIONS CLICK HERE

If you are looking for a complete list of our current contractors, we highly recommend using our Posting List page.
For a list of contractors with their full information, please submit a Public Records Request through our Public Records Request One-Stop page. Thank you.

ARIZONA Official Website of the State of Arizona

Contact Us

AZ ROC
1700 W. Washington St. Suite 105
Phoenix, Arizona 85007-2812
Phone: (602) 542-1525
Fax: (602) 542-1599
Find in Google Maps



IFB 20N-1112 EVALUATOR AGREEMENT AND CONFLICT OF INTEREST FORM

NAME and TITLE Michael R. Nentwig EMPLOYER MESC

ADDRESS 625 East Beale St. Kingman AZ 86401 PHONE 928-718-3203

Working with the following Mohave Contract Specialist: Self

Statement of Understanding
(Initial each section to indicate your understanding of the requirement)

(M) I agree to evaluate the responses to the solicitation according to its evaluation criteria terms.

The IFB evaluation criteria is as follows:

Basis of award: Award(s) will be made to the responsive and responsible bidder(s) whose bid(s) is (are) determined in writing to be the low responsive and responsible bid or bids. Mohave reserves the right to use model projects/market baskets to determine the ranking of bids. It is Mohave's intent to award a complete line of products, when possible and advantageous.

Responsible bidder: A responsible bidder is a firm or person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability that will assure good faith performance. Mohave shall ~~must~~ determine a bidder to be responsible before awarding a contract to bidder.

Responsive bids: A responsive bid conforms in all respects to the material requirements of the solicitation. Bids must be responsive to receive award consideration. *Mohave reserves the right to waive minor informalities.*

(M) I understand that Mohave will consider my evaluation along with evaluations by other professionals. However, I also agree that Mohave is under no obligation to accept my evaluation, except as advisory. I also understand that Mohave will hold my employer and/or me harmless if any vendor or interested party protests any award or lack of award made by Mohave under the terms of this solicitation.

(M) I agree not to discuss my evaluation or any of the evaluation process prior to the announcement of an award, as required by Arizona statute (per ARS §41-2616 (C)).

(M) *I confirm that I have not received gratuities in the form of entertainment, gifts, or otherwise, that have been offered by any of the* bidders responding to this solicitation with a view toward securing a contract.

Mohave may publicly thank members of the evaluation committee who are not employed by Mohave on our website. By making your selection below, this will indicate your understanding that we may publicly recognize your help with the evaluation process. Please indicate if wish or do not to be thanked in this manner, by indicating with Yes or No answer below:

(M) (Yes) _____ (No)

Please indicate your answer by signing your initials in the appropriate boxes

[ ] New Evaluator [(M)] Returning Evaluator

The Arizona Revised Statutes (ARS) place some restrictions with which you must comply regarding conflict of interest not only for yourself but also your relatives (Relative means: spouse, child, child's child, parent, grandparent, siblings (full or half-blood) and their spouses, and the parent, sibling or child of a spouse, pursuant to ARS 38-502). You are required to complete the following form to determine that you're in compliance with these provisions. This form must be completed every time you participate in a contract evaluation.

Business Interest

Are you, or any of your relatives, involved in any ownership, employment, public or private affiliations, or special arrangements which may have a substantial (Substantial means: any pecuniary or proprietary interest, either direct or indirect, other than a remote interest) interest in any contract, sale, purchase, or service involving Mohave or any of Mohave's contracts, vendors or members?

[(M)] No [ ] Yes Please describe below (attach sheet if necessary):

_____

_____

_____

Liability

Violating Arizona's conflict of interest laws have significant consequences which include, but may not be limited to:

1. Intentionally or knowingly violating any provision of sections §38-503 through §38-505 is guilty of a CLASS 6 FELONY.
2. Recklessly or negligently violating any provision of sections §38-503 through §38-505 is guilty of a CLASS 1 MISDEMEANOR.

[(M)] I understand that I may be held personally liable for costs associated with violating Arizona's conflict of interest laws.

I also acknowledge that I am responsible for knowing and understanding Arizona's conflict of interest laws available in A.R.S. §38-501 through §38-510.

Signature _____ **Date** 11/12/20

Signature by Mohave: Anita L McInnes

IFB 20N-1112 EVALUATOR AGREEMENT AND CONFLICT OF INTEREST FORM

NAME and TITLE Matt Belden Ast. Sup. of Operations EMPLOYER GUHSD #205

ADDRESS 7650 W. 43rd Ave Glendale 85301 PHONE 623-435-6689

Working with the following Mohave Contract Specialist: Mike Nentwig

Statement of Understanding
(Initial each section to indicate your understanding of the requirement)

MB I agree to evaluate the responses to the solicitation according to its evaluation criteria terms.

The IFB evaluation criteria is as follows:

Basis of award: Award(s) will be made to the responsive and responsible bidder(s) whose bid(s) is (are) determined in writing to be the low responsive and responsible bid or bids. Mohave reserves the right to use model projects/market baskets to determine the ranking of bids. It is Mohave's intent to award a complete line of products, when possible and advantageous.

Responsible bidder: A responsible bidder is a firm or person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability that will assure good faith performance. Mohave shall ~~must~~ determine a bidder to be responsible before awarding a contract to bidder.

Responsive bids: A responsive bid conforms in all respects to the material requirements of the solicitation. Bids must be responsive to receive award consideration. Mohave reserves the right to waive minor informalities.

MB I understand that Mohave will consider my evaluation along with evaluations by other professionals. However, I also agree that Mohave is under no obligation to accept my evaluation, except as advisory. I also understand that Mohave will hold my employer and/or me harmless if any vendor or interested party protests any award or lack of award made by Mohave under the terms of this solicitation.

MB I agree not to discuss my evaluation or any of the evaluation process prior to the announcement of an award, as required by Arizona statute (per ARS §41-2616 (C)).

MB I confirm that I have not received gratuities in the form of entertainment, gifts, or otherwise, that have been offered by any of the bidders responding to this solicitation with a view toward securing a contract.

Mohave may publicly thank members of the evaluation committee who are not employed by Mohave on our website. By making your selection below, this will indicate your understanding that we may publicly recognize your help with the evaluation process. Please indicate if wish or do not to be thanked in this manner, by indicating with Yes or No answer below:

MB (Yes) _____ (No)

Please indicate your answer by signing your initials in the appropriate boxes

[MB] New Evaluator [ ] Returning Evaluator

The Arizona Revised Statutes (ARS) place some restrictions with which you must comply regarding conflict of interest not only for yourself but also your relatives (Relative means: spouse, child, child's child, parent, grandparent, siblings (full or half-blood) and their spouses, and the parent, sibling or child of a spouse, pursuant to ARS 38-502). You are required to complete the following form to determine that you're in compliance with these provisions. This form must be completed every time you participate in a contract evaluation.

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Are you, or any of your relatives, involved in any ownership, employment, public or private affiliations, or special arrangements which may have a substantial (Substantial means: any pecuniary or proprietary interest, either direct or indirect, other than a remote interest) interest in any contract, sale, purchase, or service involving Mohave or any of Mohave's contracts, vendors or members?

[MB] No [ ] Yes Please describe below (attach sheet if necessary):

Liability

Violating Arizona's conflict of interest laws have significant consequences which include, but may not be limited to:

1. Intentionally or knowingly violating any provision of sections §38-503 through §38-505 is guilty of a CLASS 6 FELONY.
2. Recklessly or negligently violating any provision of sections §38-503 through §38-505 is guilty of a CLASS 1 MISDEMEANOR.

[MB] I understand that I may be held personally liable for costs associated with violating Arizona's conflict of interest laws.

I also acknowledge that I am responsible for knowing and understanding Arizona's conflict of interest laws available in A.R.S. §38-501 through §38-510.

Signature Matt Belden **Date** 11/24/2020

Signature by Mohave: Anita Montano

IFB 20N-1112 EVALUATOR AGREEMENT AND CONFLICT OF INTEREST FORM

NAME and TITLE Griselda Cruz Audit/Proc Manager EMPLOYER Mohave Educational Servic
ADDRESS 625 E. Beale St Kingman AZ 86409 PHONE (928)718-3206
Working with the following Mohave Contract Specialist: Michael Nentwig

Statement of Understanding
(Initial each section to indicate your understanding of the requirement)

GC I agree to evaluate the responses to the solicitation according to its evaluation criteria terms.

The IFB evaluation criteria is as follows:

Basis of award: Award(s) will be made to the responsive and responsible bidder(s) whose bid(s) is (are) determined in writing to be the low responsive and responsible bid or bids. Mohave reserves the right to use model projects/market baskets to determine the ranking of bids. It is Mohave's intent to award a complete line of products, when possible and advantageous.
Responsible bidder: A responsible bidder is a firm or person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability that will assure good faith performance. Mohave shall ~~must~~ determine a bidder to be responsible before awarding a contract to bidder.
Responsive bids: A responsive bid conforms in all respects to the material requirements of the solicitation. Bids must be responsive to receive award consideration. Mohave reserves the right to waive minor informalities.

GC I understand that Mohave will consider my evaluation along with evaluations by other professionals. However, I also agree that Mohave is under no obligation to accept my evaluation, except as advisory. I also understand that Mohave will hold my employer and/or me harmless if any vendor or interested party protests any award or lack of award made by Mohave under the terms of this solicitation.

GC I agree not to discuss my evaluation or any of the evaluation process prior to the announcement of an award, as required by Arizona statute (per ARS §41-2616 (C)).

GC I confirm that I have not received gratuities in the form of entertainment, gifts, or otherwise, that have been offered by any of the bidders responding to this solicitation with a view toward securing a contract.

Mohave may publicly thank members of the evaluation committee who are not employed by Mohave on our website. By making your selection below, this will indicate your understanding that we may publicly recognize your help with the evaluation process. Please indicate if wish or do not to be thanked in this manner, by indicating with Yes or No answer below:
✓ (Yes) ____ (No)

Please indicate your answer by signing your initials in the appropriate boxes

☐ New Evaluator ☑ Returning Evaluator

The Arizona Revised Statutes (ARS) place some restrictions with which you must comply regarding conflict of interest not only for yourself but also your relatives (Relative means: spouse, child, child's child, parent, grandparent, siblings (full or half-blood) and their spouses, and the parent, sibling or child of a spouse, pursuant to ARS 38-502). You are required to complete the following form to determine that you're in compliance with these provisions. This form must be completed every time you participate in a contract evaluation.

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Are you, or any of your relatives, involved in any ownership, employment, public or private affiliations, or special arrangements which may have a substantial (Substantial means: any pecuniary or proprietary interest, either direct or indirect, other than a remote interest) interest in any contract, sale, purchase, or service involving Mohave or any of Mohave's contracts, vendors or members?

☑ No ☐ Yes Please describe below (attach sheet if necessary):

Liability
Violating Arizona's conflict of interest laws have significant consequences which include, but may not be limited to:
1. Intentionally or knowingly violating any provision of sections §38-503 through §38-505 is guilty of a CLASS 6 FELONY.
2. Recklessly or negligently violating any provision of sections §38-503 through §38-505 is guilty of a CLASS 1 MISDEMEANOR.

☑ I understand that I may be held personally liable for costs associated with violating Arizona's conflict of interest laws.

I also acknowledge that I am responsible for knowing and understanding Arizona's conflict of interest laws available in A.R.S. §38-501 through §38-510.

Signature Griselda Cruz **Date** 11/17/2020

Signature by Mohave: Anita L McLemore

SAM Search Results
List of records matching your search for :

Search Term : General Acrylics, Inc.*
Record Status: Active

ENTITY	General Acrylics, Inc.	Status: Active
DUNS: 061088720	+4:	CAGE Code: 7J7N8 DoDAAC:
Expiration Date: 08/03/2021	Has Active Exclusion?: No	Debt Subject to Offset?: No
Address: 22222 N 22nd Ave City: Phoenix ZIP Code: 85027-1903		State/Province: ARIZONA Country: UNITED STATES

Debarred and Suspended Firms

SPO is responsible for maintaining a list of firms that are suspended or debarred from doing business with the State of Arizona.

THERE ARE NO SUSPENDED OR DEBARRED FIRMS AT THIS TIME.

MOHAVE COOPERATIVE

Extensions & Amendments

20N-GAI3-0202
General Acrylics, Inc.

20N-GAI3-0202 Contract Extension Effective 2/2/2022 2

20N-GAI3-0202 Contract Extension Effective 2/2/2023 9

20N-GAI3-0202 Contract Amendments 13

Mohave Contract Extension periods are for one year following the effective date, unless noted otherwise.

Click section title to be taken directly to that section.

4/5/18 EH

1/5/2022

MOHAVE COOPERATIVE

Modification of Contract
(Contract Extension)
(Page 1 of 3)

Jonnie Deremo
General Acrylics, Inc
22222 N. 22nd Avenue
Phoenix, AZ 85027

RE: Contract # 20N-GAI3-0202 modification of contract through an extension of contract is made by, and between, General Acrylics, Inc and Mohave Educational Services Cooperative (Mohave).

In accordance with its terms and conditions, Mohave requests to extend contract 20N-GAI3-0202 for a period of one (1) year, beginning 2/2/2022. The extension shall be under the same terms and conditions contained therein.

Provide your agreement to extend by completing the appropriate information below and on the following pages. If the contract is extended, General Acrylics, Inc agrees to provide products or prices as per 20N -1112.

By signing this Modification of Contract, you hereby certify to the best of your knowledge and belief that your firm complies with Byrd Anti-Lobbying Amendment 31 U.S. Code § 1352, 2 CFR § 200.450 and Federal Acquisition Regulation 52.203-11

We agree to **modify** and **extend** the contract as specified above, abiding by the current terms and conditions, and any attached clarifications.

Signature _____ Title President

Typed/Printed Name Jonnie Deremo Date 1.5.22

Upon your signed, executed Modification of Contract through a Contract Extension, you shall be bound to sell the materials and/or services offered to and accepted by Mohave in accordance with the solicitation, including all terms, conditions, specifications, amendments and any accepted written exceptions.

Nancy L. Colbaugh

Nancy Colbaugh, CPPB
Contracts Manager
Mohave Educational Services Cooperative, Inc.
625 East Beale Street | Kingman, AZ 86401
Phone 928-718-3228 | Fax 928-718-3232

If all pages of this notice are not received at Mohave's Kingman office on, or before, 2/2/2022, orders shall be held without processing. Email or fax completed extension to contracts@mesc.org or 928-718-3232.

To terminate the contract effective 2/2/2022, email or fax a notice of your request to cancel the contract to contracts@mesc.org or 928-718-3232. You agree to complete any authorized work or orders received prior to that date. Renewals not received within 14 days following 2/2/2022 may result in cancellation of the contract. However, any authorized orders received prior to this date, shall be completed under this contracts terms and conditions.

Modification of Contract
(Contract Extension)

Requested Pricing Modifications

We list your contract as utilizing Combination. Please confirm the following regarding pricing under your contract:

____ Our contract utilized firm-fixed pricing. We agree to hold the current prices until the next contract renewal date of 2/2/2023.

____ Our contract utilized percentage off MSRP/Retail pricing. The current price lists/catalogs are still applicable.

X___ We are requesting a price modification. A price list/catalog will be submitted by March 31, 2022. (Insert Date)

Remember that your firm cannot quote any new products contained in pricing submitted with your contract extension until it has been reviewed and a Contract Modification through a pricing update/product addition has been issued. Current contract pricing will remain in effect until this process is complete.

Please verify that the following information is correct and accurate:

POs Attn: Order Desk
General Acrylics, Inc
22222 N. 22nd Avenue
Phoenix, AZ 85027

Remit to: General Acrylics, Inc
Accounts Receivable
22222 N. 22nd Avenue
Phoenix, AZ 85027

Member Contact: Jonnie Deremo
Contract Administrator: Jonnie Deremo
Phone Number: 602-569-9377 x102
Fax Number: 623-298-1310

Vendor Logo
Currently, we have the following logo on file for use on our website in our product/vendor finder:



If you wish to revise or update the logo we have on file, keep the following requirements in mind:

- *What file types are acceptable?* Vector point files are highly recommended (such as .ai or .eps files). If you don't have access to a vector point file, a large hi-resolution (approximately 150-300 dpi) JPEG, TIFF, BITMAP, GIF or PNG file will work. Having a file with a high dpi will help keep images looking sharp if we need to resize the logo.
- *What file size is recommended?* There is no limitation to the logo file size.

Modification of Contract
(Contract Extension)

Vendor Benefits Description

Currently, we have the following information on our website detailing the benefits of your contract for our members to view:

Since 1987, General Acrylics, Inc. has become the leading tennis sports courts contractor in Arizona and the entire Southwest region. Our motto "See the Difference" signifies our commitment to providing reliable products and quality installations, performed with integrity and to the customer's satisfaction. Jonnie Deremo has always ensured that General Acrylics is a leader in the sports construction industry by continuing to developing innovative products, applications and construction methods. Following these goals, principles and providing industry leadership has made General Acrylics the most sought after contractor in our field of construction

General Acrylics, Inc. has always operated under the philosophy of providing our customers the best products and service with a fair price. We feel that we can provide customers in our area with better service than our competition because of our location, company size and our company goals. Tennis and sports courts are our business, not just a sideline. Since 1987, we have seen fifteen or more tennis and sports courts contractors come and go. The price that our customers pay for our services is justified by the quality of the completed project, the service they receive, and the comfort of knowing that, if there is a problem, we will still be here to honor our warranty. Based on these principles, this guarantees "added value".

If you wish to revise or update the vendors benefits information we have on file, keep the following requirements in mind:

- The description should be 150-200 words that explain the benefits that your company can provide to our members through your Mohave contract.
- The description should give a brief overview for members who may be accessing information about your contract from our product vendor finder on Mohave's website.
- Please note that Mohave reserves the right to revise or modify the information provided either for content or length.

Email or fax request for information revisions or additional information to contracts@mesc.org or 928-718-3232. If you have any questions, contact your Contract Specialist either via email at michael@mesc.org or phone 928-718-3222.

SAM.GOV

GENERAL ACRYLICS, INC.

DUNS Unique Entity ID	SAM Unique Entity ID	CAGE / NCAGE
061088720	**MWH4YG244BJ7**	**7J7N8**
Purpose of Registration	Registration Status	Expiration Date
All Awards	**Active**	**Jan 30, 2022**
Physical Address	Mailing Address	
22222 N 22ND AVE **Phoenix, Arizona 85027-1903** **United States**	**22222 N 22ND AVE** **Phoenix, Arizona 85027-1903** **United States**	

Business Information

Doing Business as	Division Name	Division Number
(blank)	**(blank)**	**(blank)**
Congressional District	State / Country of Incorporation	URL
Arizona 06	**Arizona / United States**	**(blank)**

Registration Dates

Activation Date	Submission Date	Initial Registration Date
Aug 3, 2020	**Aug 3, 2020**	**Dec 3, 2015**

Entity Dates

Entity Start Date	Fiscal Year End Close Date
Aug 8, 1958	**Dec 31**

Immediate Owner

CAGE	Legal Business Name
(blank)	**(blank)**

Highest Level Owner

CAGE	Legal Business Name
(blank)	**(blank)**

Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

Proceedings Questions

Registrants in the System for Award Management (SAM) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2.C.F.R. 200 Appendix XII. Their responses are not displayed in SAM. They are sent to FAPIIS.gov for display as applicable. Maintaining an active registration in SAM demonstrates the registrant responded to the proceedings questions.

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure	Entity Type	Organization Factors
Corporate Entity (Not Tax Exempt)	**Business or Organization**	**Manufacturer of Goods** **Subchapter S Corporation**
Profit Structure		
For Profit Organization		

Socio-Economic Types

Check the registrant's Reps & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the

SBA supplemental pages during registration.

Financial Information

Accepts Credit Card Payments	Debt Subject To Offset
Yes	**No**

EFT Indicator	CAGE Code
0000	**7J7N8**

Points of Contact

Electronic Business

Jonnie R Deremo, President

22222 N 22ND AVE
Phoenix, Arizona 85027
United States

Government Business

Jonnie R Deremo, President

22222 N 22ND AVE
Phoenix, Arizona 85027
United States

Service Classifications

NAICS Codes

Primary	NAICS Codes	NAICS Title
Yes	**238990**	**All Other Specialty Trade Contractors**
	713940	**Fitness And Recreational Sports Centers**

Disaster Response

This entity does not appear in the disaster response registry.

GENEACR-02 JCONNORS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/20/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
The Mahoney Group - Phoenix 20333 North 19th Avenue, Suite 200 Phoenix, AZ 85027	PHONE (A/C, No, Ext): (623) 215-1300	FAX (A/C, No): (623) 215-1333
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Great American Alliance	26832
INSURED	INSURER B : CopperPoint Indemnity Insurance Company	13928
General Acrylics, Inc. 22222 N. 22nd Avenue Phoenix, AZ 85027	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY							
	[ ] CLAIMS-MADE [X] OCCUR	X	X	PAC174574404	10/20/2021	10/20/2022	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	[ ] POLICY [X] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	[ ] OTHER:							$
A	AUTOMOBILE LIABILITY							
	X ANY AUTO			CAP174574505	10/20/2021	10/20/2022	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS						BODILY INJURY (Per person)	$
	[ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	[ ] UMBRELLA LIAB [X] OCCUR			EXC174574605	10/20/2021	10/20/2022	EACH OCCURRENCE	$ 6,000,000
	X EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$ 6,000,000
	[ ] DED [X] RETENTION $ 0							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH)	N / A	X	1011844	1/1/2021	1/1/2022	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contract 20N-GAI3-0202 Sports Courts: New, Repair and Maintenance
Contract 21F-GAI-0424 Running Tracks
Contract 21I-GAI-2-1202 Synthetic Turf/Grass Systems
Contract 16M-GAI2-1201 Synthetic Turf/Grass Systems

Mohave Educational Services additional insured.

CERTIFICATE HOLDER

Mohave Educational Services Cooperative, Inc
625 East Beal Street
Kingman, AZ 86401

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Bill Horton

© 1988-2015 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

GENEACR-02 JCONNORS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/18/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
The Mahoney Group - Phoenix 20333 North 19th Avenue, Suite 200 Phoenix, AZ 85027	PHONE (A/C, No, Ext): (623) 215-1300	FAX (A/C, No): (623) 215-1333
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Great American Alliance	26832
INSURED	INSURER B : CopperPoint Indemnity Insurance Company	13928
General Acrylics, Inc. 22222 N. 22nd Avenue Phoenix, AZ 85027	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY							
	[ ] CLAIMS-MADE [X] OCCUR	X	X	PAC174574404	10/20/2022	10/20/2023	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	[ ] POLICY [X] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	[ ] OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO			CAP174574505	10/20/2022	10/20/2023	BODILY INJURY (Per person)	$
	[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	[ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	[ ] UMBRELLA LIAB [X] OCCUR						EACH OCCURRENCE	$ 6,000,000
	X EXCESS LIAB [ ] CLAIMS-MADE			EXC174574605	10/20/2022	10/20/2023	AGGREGATE	$ 6,000,000
	[ ] DED [X] RETENTION $ 0							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ]	N / A	X	1011844	1/1/2022	1/1/2023	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contract 20N-GAI3-0202 Sports Courts: New, Repair and Maintenance
Contract 21F-GAI-0424 Running Tracks
Contract 21I-GAI-2-1202 Synthetic Turf/Grass Systems
Contract 16M-GAI2-1201 Synthetic Turf/Grass Systems

Mohave Educational Services additional insured.

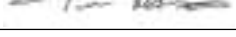
CERTIFICATE HOLDER

Mohave Educational Services Cooperative, Inc
625 East Beal Street
Kingman, AZ 86401

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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12/19/2022

MOHAVE COOPERATIVE

Modification of Contract
(Contract Extension)
(Page 1 of 3)

Jonnie Deremo
General Acrylics, Inc
22222 N. 22nd Avenue
Phoenix, AZ 85027

RE: Contract # 20N-GAI3-0202 modification of contract through an extension of contract is made by, and between, General Acrylics, Inc and Mohave Educational Services Cooperative (Mohave).

In accordance with its terms and conditions, Mohave requests to extend contract 20N-GAI3-0202 for a period of one (1) year, beginning 2/2/2023. The extension shall be under the same terms and conditions contained therein.

Provide your agreement to extend by completing the appropriate information below and on the following pages. If the contract is extended, General Acrylics, Inc agrees to provide products or prices as per 20N -1112.

By signing this Modification of Contract, you hereby certify to the best of your knowledge and belief that your firm complies with Byrd Anti-Lobbying Amendment 31 U.S. Code § 1352, 2 CFR § 200.450 and Federal Acquisition Regulation 52.203-11

We agree to **modify** and **extend** the contract as specified above, abiding by the current terms and conditions, and any attached clarifications.

Signature _____ Title President

Typed/Printed Name Jonnie Deremo Date 12/19/22

Upon your signed, executed Modification of Contract through a Contract Extension, you shall be bound to sell the materials and/or services offered to and accepted by Mohave in accordance with the solicitation, including all terms, conditions, specifications, amendments and any accepted written exceptions.

Nancy L. Colbaugh

Nancy Colbaugh, CPPB
Contracts Manager
Mohave Educational Services Cooperative, Inc.
625 East Beale Street | Kingman, AZ 86401
Phone 928-718-3228 | Fax 928-718-3232

If all pages of this notice are not received at Mohave's Kingman office on, or before, 2/2/2023, orders shall be held without processing. Email or fax completed extension to contracts@mesc.org or 928-718-3232.

To terminate the contract effective 2/2/2023, email or fax a notice of your request to cancel the contract to contracts@mesc.org or 928-718-3232. You agree to complete any authorized work or orders received prior to that date. Renewals not received within 14 days following 2/2/2023 may result in cancellation of the contract. However, any authorized orders received prior to this date, shall be completed under this contracts terms and conditions.

Modification of Contract
(Contract Extension)

Requested Pricing Modifications

We list your contract as utilizing Combination. Please confirm the following regarding pricing under your contract:

____ Our contract utilized firm-fixed pricing. We agree to hold the current prices until the next contract renewal date of 2/2/2024.

____ Our contract utilized percentage off MSRP/Retail pricing. The current price lists/catalogs are still applicable.

☑ We are requesting a price modification. A price list/catalog will be submitted by 3/1/23. (Insert Date)

Remember that your firm cannot quote any new products contained in pricing submitted with your contract extension until it has been reviewed and a Contract Modification through a pricing update/product addition has been issued. Current contract pricing will remain in effect until this process is complete.

Please verify that the following information is correct and accurate:

POs Attn: Order Desk
General Acrylics, Inc
22222 N. 22nd Avenue
Phoenix, AZ 85027

Remit to: General Acrylics, Inc
Accounts Receivable
22222 N. 22nd Avenue
Phoenix, AZ 85027

Member Contact: Jonnie Deremo
Contract Administrator: Jonnie Deremo
Phone Number: 602-569-9377 x102
Fax Number: 623-298-1310

Vendor Logo
Currently, we have the following logo on file for use on our website in our product/vendor finder:



If you wish to revise or update the logo we have on file, keep the following requirements in mind:

- *What file types are acceptable?* Vector point files are highly recommended (such as .ai or .eps files). If you don't have access to a vector point file, a large hi-resolution (approximately 150-300 dpi) JPEG, TIFF, BITMAP, GIF or PNG file will work. Having a file with a high dpi will help keep images looking sharp if we need to resize the logo.
- *What file size is recommended?* There is no limitation to the logo file size.

Modification of Contract
(Contract Extension)

Vendor Benefits Description

Currently, we have the following information on our website detailing the benefits of your contract for our members to view:

Since 1987, General Acrylics, Inc. has become the leading tennis sports courts contractor in Arizona and the entire Southwest region. Our motto "See the Difference" signifies our commitment to providing reliable products and quality installations, performed with integrity and to the customer's satisfaction. Jonnie Deremo has always ensured that General Acrylics is a leader in the sports construction industry by continuing to developing innovative products, applications and construction methods. Following these goals, principles and providing industry leadership has made General Acrylics the most sought after contractor in our field of construction

General Acrylics, Inc. has always operated under the philosophy of providing our customers the best products and service with a fair price. We feel that we can provide customers in our area with better service than our competition because of our location, company size and our company goals. Tennis and sports courts are our business, not just a sideline. Since 1987, we have seen fifteen or more tennis and sports courts contractors come and go. The price that our customers pay for our services is justified by the quality of the completed project, the service they receive, and the comfort of knowing that, if there is a problem, we will still be here to honor our warranty. Based on these principles, this guarantees "added value".

If you wish to revise or update the vendors benefits information we have on file, keep the following requirements in mind:
·The description should be 150-200 words that explain the benefits that your company can provide to our members through your Mohave contract.
·The description should give a brief overview for members who may be accessing information about your contract from our product vendor finder on Mohave's website.
·Please note that Mohave reserves the right to revise or modify the information provided either for content or length.

Email or fax request for information revisions or additional information to contracts@mesc.org or 928-718-3232. If you have any questions, contact your Contract Specialist either via email at michael@mesc.org or phone 928-718-3222.

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20N-GAI3-0202 Contract Amendments

625 East Beale Street, Kingman, AZ 86401 Phone: (928) 753-6945 Fax: (928) 718-3232 mesc.org

MOHAVE COOPERATIVE

Mohave Contract
20N-GAI3-0202

General Acrylics, Inc
Via Email

February 9, 2023

Agreement To Modify the Contract for Federal Requirements
2 CFR Part 200, Education Department General Administrative Regulations (EDGAR)
and Other Applicable Grant Regulations
to include an EDGAR Certification for Mohave's Members Federal Grant Funds Audits/Reviews

Mohave updates our contracts' General Terms and Conditions by contract modifications, as needed, when EDGAR requirements are updated. In addition to the General Terms and Conditions, Mohave is requiring a separately signed EDGAR Certification, as requested by members, for Federal Grant Fund Audits/Reviews. The following certifications and provisions are required and apply when a Mohave Education Services Cooperative, Inc.'s (Mohave) member expends federal funds for any contract resulting from this procurement process. Accordingly, the parties agree that the following terms and conditions apply to the Mohave contract in all situations where the contract vendor has been paid or will be paid with federal funds.

Contract vendor agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances when applicable. It is further acknowledged that contract vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted on the attached EDGAR Certification. Contract vendor may be required to sign amended EDGAR Certifications, if the requirements of 2 CFR 200 are updated.

By signing below, the Authorized Representative of the Mohave Contract Vendor, certifies they have reviewed the above and signed and returned the Contract Modification and the attached EDGAR Certification.

Failure to sign and return this modification and EDGAR Certification by the close of business on February 24, 2023, may result in your contract being placed on hold or canceled.
Modification takes effect on March 1, 2023

President/CEO Dated 2·10·23
Contract Administrator or Authorized Signatory
General Acrylics, Inc

Dated February 9, 2023
Anita McLemore, Executive Director
Mohave Educational Services Cooperative, Inc.

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EDGAR CERTIFICATION

The following certifications and provisions are required and apply when a Mohave Education Services Cooperative, Inc.'s (Mohave) member expends federal funds for any contract resulting from this procurement process. Accordingly, the parties agree that the following terms and conditions apply to the Mohave contract in all situations where the contract vendor has been paid or will be paid with federal funds:

A. Contract Vendor Violation or Breach of Contract. Mohave reserves all administrative, contractual and legal rights and privileges under the applicable laws and regulations with respect to this procurement in the event of contract vendor violation or breach of contract terms.

B. Termination Clause. Mohave reserves the right to immediately cancel the contract without penalty or recourse, in whole or in part, when Mohave determines that action to be in the best interests of its members, as specified in General Terms and Conditions, Section 3. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. Appendix II to 2 CFR Part 200. (Only applies to contracts over $10,000)

C. Equal Employment Opportunity. The contract vendor shall comply with the Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapters 60 EO 11246 & EO 11375 Amended): https://www.federalregister.gov/documents/2014/07/23/2014-17522/further-amendments-to-executive-order-11478-equal-employment-opportunity-in-the-federal-government)

D. Copeland Anti-Kickback Act and Davis-Bacon Act. For building projects in excess of $2,000:

a) Copeland "Anti-Kickback" Act – All contracts and sub grants for construction or repair awarded by recipients and sub recipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act.

b) Davis-Bacon Act – The contract vendor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a - 7) as supplemented by Department of Labor regulations (29 CFR Part 5).

E. Contract Work Hours and Safety Standards Act. The contract vendor shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), as supplemented by Department of Labor regulations (29 CFR Part 5). (Only applies to contracts over $100,000)

F. Rights to Inventions Made Under a Contract or Agreement. For all contracts that meet the definition of "funding agreement" and where Mohave or the member wishes to enter into a contract with a small business firm or nonprofit organization, contract vendor shall comply with the Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements. (CFR Title 37, Chapter 4, Part 401)

G. Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulation. The contract vendor will comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations which prohibit the use, under nonexempt federal contracts, grants or loans to facilities included on the EPA List of Violating Facilities.

H. Debarment, Suspension, Ineligibility and Voluntary Exclusion. By signing the *Bid/Offer and Acceptance Form*, the contract vendor certifies that they have not been debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 (2/18/1986) and 12689 (8/15/1989,

references EO 12549). The contract vendor shall comply with regulations implementing Office of Management and Budget Guidance in Non-procurement Debarment and Suspension codified at 2 CFR Part 180 (180.300, 180.355) and 2 CFR Part 417. These regulations restrict transactions with certain parties that are debarred, suspended or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities. (Only applies to contracts over $25,000)

I. Disclosure of Lobbying Activities. Pursuant to Byrd Anti-Lobbying Amendment 31 U.S.C. 1352, the contract vendor must disclose lobbying activities in connection with school nutrition programs. If there are material changes after the initial filing, updated reports must be submitted on a quarterly basis. 7 CFR §3018.100 (Only applies to contracts over $100,000)

J. Certification Regarding Lobbying. Pursuant to 31 U.S.C. 1352, the contract vendor must submit a certification regarding lobbying which conforms in substance with the language provided in 2 CFR 200.450. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative Agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions.

K. Record Retention - Record Keeping. The books and records of the contract vendor pertaining to operations under this Agreement shall be available to Mohave or Mohave's members at any reasonable time. These records are subject to inspection or audit by representatives of Mohave, State Agency, the U.S. Department of Agriculture (for food/nutrition only), and the U.S. General Accounting Office at any reasonable time and place. Mohave shall maintain such records, for a period of not less than five (5) years after the final day of the contract, or longer if required for audit resolution (A.R.S. §35-214). 7 CFR Part §210.23(c) and 2 CFR Part 200.318(i).

L. Energy Policy and Conservation Act. The contract vendor shall meet the mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat.871.)

M. Civil Rights Compliance. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any programs or activity conducted or funded by USDA.

a) Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

b) To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found on line at www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue,SW, Washington, D.C. 20250-9410: (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

N. Buy American Provision. The contract vendor will purchase, to the maximum extent practicable, domestic commodities or products in accordance with 7 CFR §210.21(d) and 7 CFR §220.16(d). The contract vendor shall purchase, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States. USDA Policy Memo SP 38-2017: "Substantially" means the final processed product contains over 51% domestically grown agricultural commodities. This provision applies to all food purchases paid from the nonprofit school food services account. There are limited exceptions to this provision which allow for the purchase of products not meeting the "domestic" standard as described above ("non-domestic") in circumstances when use of domestic products is truly not practicable. However, before utilizing an exception, alternatives to purchasing non-domestic food products should be considered. Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. Exceptions include:

(1) The product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality, or
(2) competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.

To be considered for the alternative or exception, the request must be submitted in writing to a designated official, a minimum of 14 days in advance of delivery. The request must include: (1) the alternative substitutes that are domestic and meet the required specifications, with price of the domestic food alternative substitute and the availability of the domestic alternative substitute in relation to quantity ordered, and (2) the reason for exception, whether limited/lack of availability or price. If price, include the price of the domestic food product and the price of the non-domestic product that meets the required specifications of the domestic product. (Only applies to food/nutrition contracts).

O. Affordable Care Act. The contract vendor understands and agrees that it shall be solely responsible for compliance with the Patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care and Education Reconciliation Act, Public Law 111-152 (collectively the Affordable Care Act "ACA"). The contract vendor shall bear sole responsibility for providing health care benefits for its employees who provide services to the Mohave or member, as required by State or Federal law.

P. Certificate of Independent Price Determination. The contract vendor admits that all prices in the offer have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other contract vendor or with any competitor certification regarding non-collusion. (48 CFR §52.203-2)

Q. Invoicing. The contract vendor shall fully disclose all discounts, rebates, allowances and incentives received by the contract vendor from its suppliers. If the contract vendor receives a discount, rebate, allowance, or incentive from a supplier, the contract vendor must disclose and return to the member the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the member. The contract vendor shall identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school foods authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. 7 CFR §210.21(f)(1)(iv). No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost-reimbursable contract that fails to include the requirements of 7 CFR §210.21, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contract vendor receiving payments in excess of the contract vendor's actual, net allowable costs. 7 CFR §210.21(f)(2). The return of purchase incentives, discounts, rebates, and credits will be to the Sponsor's non-profit Child Nutrition account. (Only applies to food/nutrition contracts)

R. E-Verify Requirement. The contract vendor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. §23-214, Subsection A. (That subsection reads: After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.) Contract vendor shall keep a record of the verification for the duration of the employee's employment, or at least three years, whichever is longer.

S. Description of Process for Enabling Contract Vendor to Receive or Pick Up Orders Upon Contract Award. Once the member has made the decision to order from an awarded contract vendor of an awarded contract, price will be confirmed/verified and purchase orders issued and sent to Mohave and the contract vendor, based upon the needs of the member. No volume is implied or guaranteed.

T. Solid Waste Disposal Act. The contract vendor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conversation and Recovery Act and its implementing regulations.

U. Program Regulations. Contract vendor shall be in conformance with the applicable portions of the School Food Authority's (SFA) agreement under the program. Contract vendor will conduct program operations in accordance with 7CFR Parts 210, 215, 220, 225, and 250. Contract vendor shall provide products that meet the Public Law 111-296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). Contract vendor's products shall meet grade level caloric, sodium, saturated fat, and trans fat requirements. (Only applies to food/nutrition contracts)

V. Small Business, Minority-Owned Firms, and Women's Business Enterprises. When Federal funding may be used, Mohave shall take affirmative steps to assure minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Prime contractors are required to take the same affirmative steps if subcontracts are let. 2 CFR Part 200.321

W. Prohibition on Certain Telecommunications and Video Surveillance Services and Equipment. Contract vendor agrees that they will not provide equipment, services or systems that do not comply with 2 CFR §200.216 and/or 2 CFR §200.471. See also Public Law 115-232 section 889 for additional information.

X. Subcontractors. Contract vendor agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Y. Domestic Preferences for Procurements.

a) As appropriate and to the extent consistent with law, Mohave and Mohave's members, to the greatest extent practicable under a Federal award, prefer the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. 2 CFR §200.322.

b) For purposes of this section:

1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

CONTRACT VENDOR AGREES TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES WHEN APPLICABLE. IT IS FURTHER ACKNOWLEDGED THAT CONTRACT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS, REGULATIONS, ETC. AS SPECIFICALLY NOTED ABOVE AND APPLICABLE. CONTRACT VENDOR MAY BE REQUIRED TO SIGN AMENDED EDGAR CERTIFICATIONS IF THE REQUIREMENTS OF 2 CFR 200 ARE UPDATED.

Company Name: General Acrylics, Inc. Mohave Contract Number: 20N-GAI3-0202

Printed Name: Jonnie Deremo

Authorized Signature: _____ Date: 2/10/23

Title: President E-Mail: jderemo@generalacrylics.com

NLC:2/2/2023

MOHAVE COOPERATIVE

Mohave Contract
20N-GAI3-0202

General Acrylics, Inc
Via Email

October 28, 2022

Agreement To Modify the General Terms and Conditions for State Requirement A.R.S. § 35-394, Forced Labor of Ethnic Uyghurs in the People's Republic of China

In order for Mohave Educational Services Cooperative, Inc.'s (Mohave's) contracts to comply with Arizona Revised Statute § 35-394, Mohave is modifying its existing contracts. Please review and initial below the additional General Term and Condition. Sign and date at the bottom of the modification and return to Mohave no later than November 4, 2022.

By initialing and signing below, your firm certifies compliance with A.R.S. § 35-394 to not use forced labor, or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Initial Agreement, as the Authorized Representative of the Contract Vendor.

Failure to sign and return modification by the close of business on November 4, 2022, may result in your contract being placed on hold or canceled.

Modification takes effect on November 7, 2022.

Jonnie Decemo
General Acrylics, Inc

Dated 11-2-22

Anita L McLemore

Dated October 28, 2022
Anita McLemore, Executive Director
Mohave Educational Services Cooperative, Inc.

MOHAVE COOPERATIVE

Mohave Contract
20N-GAI3-0202

General Acrylics, Inc
Via Email

February 15, 2022

Agreement To Amend the Terms and Conditions for Federal and State Requirements

In order for Mohave Educational Services Cooperative, Inc.'s (Mohave's) contracts to comply with Federal Education Department General Administration Regulations (EDGAR) requirements and 2 CFR § 200.322 Domestic Preferences for Procurements, Mohave is amending its existing contracts. Please review, initial next to the requirement, sign at the bottom of the amendment and return to Mohave no later than February 22, 2022.

Domestic preferences for procurements. Offeror agrees that it will not obligate or expend any grant funds in violation of 2 CFR § 200.322 to the greatest extent practicable.

JD Initial Agreement as the Authorized Representative of the Contract Vendor.

Failure to sign and return amendment by the close of business on February 22, 2022, may result in your contract being placed on hold or canceled.

Amendment takes effective February 23, 2022.

Johnnie Deremo
General Acrylics, Inc

Dated 2.16.22

Anita S McLemore

Dated February 15, 2022
Anita McLemore, Executive Director
Mohave Educational Services Cooperative, Inc.

MOHAVE COOPERATIVE

Mohave Contract
20N-GAI3-0202

General Acrylics, Inc.
Via Email

9/16/2021

Agreement to Modify/Amend the Terms and Conditions of the Existing Contract

In order for Mohave Educational Services Cooperative, Inc.'s (Mohave's) contracts to comply with Federal Education Department General Administration Regulations (EDGAR) requirements and 2 CFR § 200.216 and/or 2 CFR § 200.471, Mohave is modifying/amending its existing contracts. Please review, initial next to the requirement, sign at the bottom of the contract modification/amendment and return to Mohave no later than September 24, 2021.

Prohibition on Certain Telecommunications and Video Surveillance Services and Equipment: Offeror agrees that it will not provide equipment, services or systems that do not comply with 2 CFR § 200.216 and/or 2 CFR § 200.471.

Initial Agreement as the Authorized Representative of the Contract Vendor.

Failure to sign and return amendment by the close of business on September 24, 2021, may result in your contract being placed on hold or canceled.

Modification/Amendment takes effective September 27, 2021.

PRESIDENT Dated 9.16.21

Jennie Deremo
General Acrylics, Inc.

Anita L McLemore

Dated: September 16, 2021
Anita McLemore, Executive Director
Mohave Educational Services Cooperative, Inc.

11. F.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE

Consideration of Citizen Petition: A Citizens' Petition titled Reconsideration of Pickleball Courts at Thorpe Park Annex

STAFF RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

In accordance with Art. II, Sect. 17 of the Flagstaff City Charter, any citizen may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City...who shall present it to the Council at its next regular meeting. The attached petition was filed with the City Clerk's Office on June 12, 2023, requesting that the City Council reconsider its decision of December 6, 2022 regarding pickleball courts at Thorpe Park Annex.

INFORMATION:

Chapter 1-12 of the Flagstaff City Code formalizes the information to be required, and the attached petition conforms to those requirements. As outlined in this chapter, the petition is to be submitted to the Council under Future Agenda Item Request (F.A.I.R.) to determine if there is Council interest in placing the item on a future agenda for consideration.

Attachments: Petition #2023-05

PETITION TO FLAGSTAFF CITY COUNCIL

Pursuant to Flagstaff City Charter Article II Section 17 and Flagstaff City Code Title I Chapter 12

RECEIVED JUN 12 2023 BY:

Pursuant to the Flagstaff City Charter and the City Code, any citizen (resident) of the City may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City of Flagstaff, which shall be presented to the City Council.

Title of Issue: Reconsideration of Pickleball Courts at Thorpe Park Annex

Action Requested: We request the City Council reconsider its decision of 12/6/22 regarding pickleball courts at Thorpe Park Annex (TPA). The NW corner of TPA is the only possible alternate "shovel-ready" location for a 16-court pickleball complex, if Bushmaster Park is deemed unacceptable.

Printed Name of Submitter: Lynn Walsh

(Submitter must also sign below and complete information)

Contact Information: (602) 750-3174 lmwalsh70@gmail.com

(Phone Number and/or e-mail address)

PETITION SIGNATURES

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6-9-23	Lynn Walsh	[redacted]	Lynn M Walsh
6-9-23	John Edmonds		Jh Edmonds
6/9/23	Ronda Edmonds		Ronda Edmonds
6/9/23	Rebecca Marlatt		
6/9/23	Charles Phillips		
6.9.23	Richard Manbeck		Richard Manbeck
6-9-23	Shelley Alvin		Shelley Alvin
6-9-23	THOMAS ALVIN		Thomas Alvin
6-9-23	Tom SCHRAEDER		Thomas Schraeder
6 9 23	David Moore		D W Moore

RECEIVED BY CITY OF FLAGSTAFF		
DATE RECEIVED	**BY**	**COUNCIL MEETING DATE**
6/12/23	Stacy Saltzburg	7/3/2023

02/2016

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 2 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/9/23	Brian Wilson	[redacted]	
6/9/23	Elijah Moore		Elijah Moore
6/9/23	STEVE YATES		
6/9/23	Rebekah Kaufman		
6/9/23	John Brennan		
6/9/23	Mary Newstead		
6/9/23	Peggy Wilson		
6/9/23	Karen Sayler		Karen Sayler
6/9/23	Julie Letts		
6/9/23	PAUL DARNELL		
6/9/23	BO DARNELL		
6/9/23	KAREN BLACK		
6/9/23	Judith Cantrill		
6/9/23	Robert Burns		
6/9/23	Mary A White		
6/9/23	WALTER WHITE		
6/9/23	Lori Ann Harrison		
6/9/23	Roger Sea Sears		
6/9/23	RICHARD T. RECKMEYER		
	Janet Reckmeyer		
6/9/23	Kim Reitz		
6/9/23	Dave Rudolph		
6/9/23	John B. Hart		

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball courts at Thorpe Park Annex **PAGE** 3 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6-9-23	DARIEN DEGHER	[redacted]	
6-9-23	John Macken		
6/9/23	Jen Mozilo		
6/9/23	Lauri Burgett		
6/9/23	James Huang		
6/9/23	Lee Johnson		
6/9/23	Devon Carter		
6/9/23	JACK LIPTON		
6/9/23	RANDY SCHILLING		
6/9/23	Amy Kaplan		
6/9/23	Michael Loy		
6/9/23	Jayden Atkin		
6/9/23	Kim Worcester		
6/9/23	GREG STROUD		
6/9/23	Glenn McCall		
6/9/23	Angie Mendoza		
6/9/23	A. DAWSON HENDERSON		
6/9/23	Patrick J Connolly		
6/9/23	STEVE PULOS		
6/9/23	Amanda Allen		
6/9/23	Austin Kerr		
6/9/23	Theresa Bierer		
6/9/23	Kathleen Peck		

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 4 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/9/23	Andy Worcester	[redacted]	[signature] Played at Bushmaster
6/9/23	Amy COX	[redacted]	Amy Cox
6/9/23	Betsy Paez	[redacted]	[signature]
6/9/23	ROBERT SANFORD	[redacted]	[signature]
6/9/23	Sandra Lee Smith Sandra Lee Smith	[redacted]	Sandra Lee Smith
6-9-23	Edward L Smith Jr	[redacted]	Edward L Smith Jr
6/9/23	Riley D. Millar	[redacted]	Riley Millar
6/9/23	Ireland Millar	[redacted]	Ireland Millar
" "	Alan Gardiner	[redacted]	[signature]
6/9/23	John Hook	[redacted]	John Hook
6/9/23	WARD Kinney	[redacted]	Ward Kinney
6/9/23	Mikiya Sequoia	[redacted]	Mikiya Sequoia
6/9/23	Patty Lacey	[redacted]	P. Lacey
6/9/23	Charlie Ross	[redacted]	[signature]
6/9/23	Jaime Roig	[redacted]	[signature]
6-9-23	Shirl A. Simkins	[redacted]	Shirl A. Simkins
6-9-23	William Lacy	[redacted]	[signature]
6-10-23	MELISSA GEISEL	[redacted]	[signature]
6-10-23	Johnnie Grgurich	[redacted]	[signature]
6-10-23	Josh Hopps	[redacted]	[signature]
6-10-23	Jesse DeRosa	[redacted]	[signature]
6-10-23	ELZARD SIKKEMA	[redacted]	
6-10-23	Keith Spae	[redacted]	[signature]

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 5 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/10/23	Christopher Moore	[redacted]	
6/9/23	Kathleen Chamberlain		
6/9/23	MICHAEL FASSETTE		
6/9/23	Tommie Deitering		
6/9/23	CHARLES SINGLETON		
6/9/23	Deborah Singleton		
6/9/23	Nile Rath		
6/9/23	Amy Albin		
6/9/23	Marianne Martin		
6/9/23	J H Niemi		
6/9/23	Rob Threewitt		
6/9/23	John Albin		
6/9/23	Debra Zink		
6/9/23	Robert McCormick		
6.9.23	Suzi Olsen Zwick		
6.9.23	Jules Olsen-Zwick		
6/9/23	Alana Bateman		
6/9/23	Deb Lidington		
6/10/23	JILL EVANS		
6/10/23	Kim Johnson		
6/10/23	Natasha Thorpe		
6/10/23	Christa Terhufen		
6/10/23	Faith Bigler		

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration Of Pickleball Courts at Thorpe Park Annex **PAGE** 6 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/10/23	JOHN BRINKMANN	[redacted]	
6/10/23	Stacey Greenstein		
6/10/23	Trevor Hupf		
6/10/23	Brett Beatty		
6/10/23	Kim Higgins		
6/10/23	BOB FAIN		
6/10/23	David Donio Enloe		
6/10/23	Sierra Ford		
6/10/23	Lawrence Yazzie		
6/10/23	Vanessa Miller		
6/10/23	Steve Ransom		
6/10/23	TAMMY BEGLER		
6/11/23	Cindy Ransom		
6/10/23	MARK LYONS		
6/10/23	Rebecca Rea		
6/10/23	Eric Newman		
6/10/23	PAT KAUS		
6/10/23	Kristin Kaus		
6/10/23	Samuel Tomich		
6/10/23	David Tomich		
6-10-23	Bill Drury		
6/10/23	Todd Noll		
6-10-23	STEVE HARRINGTON		

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 7 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/10/23	Bryan Gilles	[redacted]	
6/10/23	Talima Pearson		
6/10/23	Scott Talboom		
6-10-23	JASON COMBES		
6-10-23	JOHN TORRES		
6/10/23	JOE VILLANUEVA		
6/10/23	Kenneth Koyannic		
6/10/23	Nathan Kirikawa		
6/10/23	[illegible]		
6/10/23	Tabitha Vanegas		
6/10/23	Ryan Freeman		
6/10/23	Scott Chasan		
6/11/23	Anita Cleere		
6/11/23	John Cleere		
6/11/23	Teresa Fernicola		
6/11/23	Tony Fernicola		
6/11/23	HAROLD JOHNSON		
6/11/23	Lennox Johnson		
6/11/23	Jasper Johnson		
6/11/23	Vicki Hoban		
06-11-23	Lachelle Gillespie		
6-11-23	David Gillespie		
6-11-23	Lavenia Gillespie		

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 8 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
June 10, 2023	Barbara Brenkman	[redacted]	
June 10, 2023	John Brenkman		
June 16, 2023	Carol Hook		Carol Hook
June 10 23	Laura Woods		Lakepoint 86004
June 10, 23	Eileen Tagawa		
6/10/23	Josh Reitz		
6/10/23	Charles Hoyt		
6/10/23	David Neelon		
6/10/23	Rachel Selander		
6/10/23	Steve Alms		
6/10/23	Rosellen Sloan-Buns		
6/10/23	DAN GLOVER		
6-10-23	JULIE GLOVER		
6-10-23	Randal Thompson		
6-10-23	Adele Thompson		
6-10-23	David Stephens		
6/10/23	Elena Jo Stephens		
6/11/23	Wendy Tooker		
6/11/23	Randy Marlatt		
6/11/23	MARYANN Coyle		
6/11/23	JOE COYLE		
6/11/23	Jennifer Kottra		
6/11/23	IRVING CALLAHAN		

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 9 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6-10-2023	Shelley Herseth	[redacted]	Shelley Herseth
6/10/23	Alex Moezzi		Alex Moezzi
6/10/23	SHAWN GREEN		[illegible]
6/10/23	DAVID SCHACHERBAUER		[illegible]
6/10/23	Jill Ulm		Jill Ulm
6/10/23	Suzanne Green		[illegible]
6/10/23	Marissa Moezzi		Marissa Moezzi
6/10/23	DAMUS MOEZZI		[illegible]
6/12/23	Adriana Cunningham		[illegible]
6/12/23	Uriel martinez		[illegible]
6/12/23	Estevan batrez		[illegible]
6/12/23	DAN CUNNINGHAM		[illegible]
6/12/23	JANICE FREET		[illegible]
6/12/23	Beverly Pishkur		Beverly Pishkur
6/12/23	MARGARET B CAREY		Margaret B Carey
6.12.23	Jim Dryer		[illegible]
6-12-23	Jacqueline Fields		Jacqueline Fields
6-12-23	Eileen Altman		Eileen Altman
6.12.23	Amy Daggett		Amy M Daggett
6/12/23	JOSEPH PRATE		[illegible]
6/12/23	GAY NORD		[illegible]
6/12/23	Kevin Spade		[illegible]
6/12/23	Alejandro Acuna		[illegible]

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Reconsideration of Pickleball Courts at Thorpe Park Annex **PAGE** 10 **OF** 10

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/12/23	Michael Botwin	[redacted]	[signature]
6/12/23	Barb Grace		[signature]
6/12/23	Damian Suess		[signature]
6/12/23	Nancy Crosby		[signature]
6/12/23	Jack Lowery		[signature]
6/12/23	Josh Greene		[signature]
6/12/23	Evelyn Laughlin Play at Bushmaster Park		[signature]

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Sterling Solomon, City Attorney
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE

City Council discussion regarding the City of Flagstaff's Tobacco 21 Ordinance.

STAFF RECOMMENDED ACTION:

Discussion

EXECUTIVE SUMMARY:

On July 2, 2019, the City Council adopted Ordinance No. 2019-24 raising the minimum age to 21 for the purchase of tobacco products in Flagstaff. The ordinance is commonly referred to as the T21 Ordinance. It does not penalize persons under the age of 21 for purchasing tobacco products; it penalizes retailers who sell tobacco products to persons under 21. The Flagstaff Police Department is not charged with enforcement of the T21 Ordinance.

Shortly after the T21 Ordinance adoption in the Summer of 2019, the Federal Government enacted a law raising the age to 21 for the purchase of tobacco products. This was an important development because, at the time the Flagstaff City Council adopted the local T21 Ordinance, it was unclear whether the Federal or State governments would enact such laws. Although efforts continue at the Arizona State legislative level to raise the age to 21 for the purchase of tobacco products, that has not yet happened. Even so, the now existent Federal law is in force.

Contained in the local T21 Ordinance is a provision for the creation of a separate tobacco-sales licensing program in the City organization. That separate licensing program would likely be in the Management Services Division and entail the hiring of employees to create and manage it. Doing so will require budgetary allocations which are anticipated to be covered in part, if not entirely by license fees.

Also contained in the local T21 Ordinance is a provision for the creation of a separate tobacco-sales enforcement program in the City organization. That separate enforcement would be in separate section in a City Division (which is yet to be determined) and will also entail the hiring of employees to create and manage the enforcement program. Doing so will require budgetary allocations which are anticipated to be covered in part, if not entirely by license fees. As stated above, the Flagstaff Police Department *is not* charged with enforcement of this ordinance.

Nether the licensing or enforcement programs have been established under the local T21 Ordinance, yet. Soon after adoption of the local ordinance and the advent of the federal law raising the age to 21, the Covid-19 Pandemic disrupted many city services. City Council braced for a potential recession among other uncertainties. Budgets were tight and the licensing and enforcement aspects of this ordinance were delayed.

The T21 Ordinance is here before City Council for information to allow discussion now and following the Council Summer recess about various options that exist now, which did not previously, to potentially join in state enforcement programs already in use through the Arizona Attorney General's Office. Such collaboration may be more possible from a budget perspective. Representatives from the Arizona Attorney General's Office will likely be present to explain such options.

Other parties from both sides of the tobacco sales issue have also been invited to share their perspectives during public comment.

INFORMATION:

See above.

Attachments: T21 Ordinance

ORDINANCE NO. 2019-24

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, AMENDING FLAGSTAFF CITY CODE TITLE 7, *HEALTH AND SANITATION,* CHAPTER 7-09*, TOBACCO PRODUCTS* BY PROHIBITING THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21; ESTABLISHING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Flagstaff recognizes that the use of tobacco products has devastating health and economic consequences.

WHEREAS, Tobacco product use leads to more than $300 billion in health care and lost worker productivity costs each year according to the U.S. Department of Health & Human Services and the American Journal of Preventative Medicine.

WHEREAS, Young minds are particularly susceptible to the addictive properties of nicotine and as a result, approximately 3 out of 4 teen smokers end up smoking into adulthood according to the U.S. Department of Health & Human Services.

WHEREAS, an estimated 5.6 million youth aged 0 to 17 are projected to die prematurely from a commercial tobacco-related illness if prevalence rates do not change according to the U.S. Department of Health & Human Services.

WHEREAS, National data show that about 95 percent of adults who smoke begin smoking before they turn 21 and the time between ages 18 to 20 is a critical period when many adults who smoke move from experimental smoking to regular, daily use according to the U.S. Department of Health & Human Services.

WHEREAS, Data from the National Youth Tobacco Survey demonstrates that youth use of e-cigarettes continues to increase and the overall use rate of e-cigarettes among youth continues to be higher than other forms of tobacco and has stymied previous progress in the reduction of the overall tobacco use rate for youth according the Centers for Disease Control & Prevention.

WHEREAS, The popularity among youth of newer products, such as the brand JUUL, which currently dominates the market, is likely responsible for the significant increase of e-cigarette usage among high school students according to the Centers for Disease Control & Prevention.

WHEREAS, In 2015, the Institute of Medicine (now the National Academy of Medicine) concluded that raising the minimum legal sales age for tobacco products nationwide would reduce tobacco initiation, particularly among adolescents aged 15 to 17, improve health across the lifespan, and save lives; and that raising the minimum legal sales age for tobacco products nationwide to 21 would, over time, lead to a 12 percent decrease in smoking prevalence according to the Institute of Medicine.

WHEREAS, The Institute of Medicine also predicted that raising the minimum legal sales age for tobacco products natioide to 21 would result in 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and

2019 and would result in near immediate reductions in preterm birth, low birth weight, and sudden infant death syndrome.

WHEREAS, Tobacco21.org indicates that a growing number of state and local jurisdictions have enacted minimum legal sales age 21 policies to further restrict access to commercial tobacco.

WHEREAS, Three-quarters of adults support raising the minimum legal sales age for tobacco products to 21, including seven out of ten adults who smokes according the American Journal of Preventive Medicine.

WHEREAS, Strong policy enforcement and monitoring of retailer compliance with tobacco control policies (e.g. requiring identification checks) is necessary to achieve reductions in youth tobacco sales rates after raising the minimum legal sales age to 21;

WHEREAS, The National Academy of Medicine recommends imposing penalties on business owners to provide sufficient incentives to comply with the law, and business owners with an economic incentive to avoid violations are more likely to establish company-wide policies and incorporate instruction on tobacco laws into employee training;

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The Flagstaff City Code, Title 7, *Health and Sanitation,* Chapter 7-09 *Tobacco Products,* is hereby amended as indicated by the following language (additions shown as underlined text, and deletions shown as strike-through text):

7-09-001-0001 DEFINITIONS

In this chapter, unless the context otherwise requires:

~~A. Person means the state, the county, a political subdivision of the state, other governmental entities, a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. Person also includes a trustee, receiver, an assignee or similar representative.~~

~~B. Tobacco product means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.~~

A. Distribute or Distribution means to furnish, give, provide, sell, or to attempt to do so, whether gratuitously or for any type of compensation.

B. Electronic smoking device means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs,

devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

C. No Sales Order for Tobacco Products means and order from the City Manager or the City Manager's designee to immediate cease all sales of any and all tobacco products.

D. Person means any natural person.

E. Purchaser means any person who obtains or attempts to obtain a tobacco product.

F. Tobacco retail establishment means any place of business where tobacco products are available for sale to the general public. The term includes but is not limited to grocery stores, tobacco product shops, kiosks, convenience stores, gasoline service stations, bars, and restaurants.

G. Self-service display means any display from which customers may select a tobacco product without assistance from the tobacco retailer or the tobacco retailer's agent or employee and without a direct person-to-person transfer between the purchaser and the tobacco retailer or tobacco retailer's agent or employee.

H. Tobacco product means: (1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether or not any of these contain tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

I. Tobacco retailer means any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation who owns or operates any tobacco retail establishment. Tobacco retailer does not mean the non-management employees of an owner or operator of any tobacco retail establishment.

J. ~~C.~~ Vending machine means any mechanical, electrical or electronic device that, on insertion of money, tokens or any other form of payment, dispenses tobacco products.

7-09-001-0002 LICENSE REQUIRED

A. Each tobacco retailer engaging in the distribution of tobacco products, at each location in Flagstaff shall secure, and display at all times, a tobacco retail sales license from the City or its authorized agent before engaging or continuing to engage in such business. No tobacco retailer may distribute tobacco products without a valid tobacco retail sales license.

B. The fee for a tobacco retail sales license shall be set according to a separate fee schedule adopted and updated from time to time by City Council and used to cover the

administrative cost for licensing administration, education and training, retail inspections, and unannounced compliance checks. The tobacco retail sales license fee should not exceed the cost of the regulatory program authorized beyond this Ordinance.

C. A tobacco retail sales license cannot be renewed if the tobacco retailer has outstanding fines pursuant to this Ordinance.

D. No tobacco retail sales license shall be issued or renewed to a tobacco retail sales license unless the tobacco retailer signs a form stating that the tobacco retailer has read this Ordinance and has provided training to all employees on the sale of tobacco products. Such training shall include information that the sale of tobacco products to persons under 21 years of age is illegal, the types of identification legally acceptable for proof of age, and that sales to persons under 21 years of age shall subject the tobacco retailer to penalties.

E. Any business found to be selling tobacco products without a license shall be fined and issued a No Sales Order for Tobacco Products pursuant to section 7-09-001-0008(A) of this Chapter.

7-09-001-0003 MINIMUM LEGAL SALES AGE FOR TOBACCO PRODUCTS

The distribution of any tobacco product to a person under the age of 21 is prohibited.

7-09-001-0004 AGE VERIFICATION

Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify that the purchaser is at least 21 years of age. Each tobacco retailer or tobacco retailer's agent or employee shall examine the purchaser's government-issued photographic identification. No such verification is required for a person over the age of 30. That a purchaser appears to be 30 years of age or older shall not constitute a defense to a violation of this section.

7-09-001-0005 SELF-SERVICE DISPLAYS

No tobacco retailer or their employee or agent shall sell or otherwise distribute tobacco products by or from a self-service display or vending machine except in places where persons under the age of 21 are not permitted access at any time.

7-09-001-0006 SIGNAGE

No tobacco retailer shall sell or permit the sale of tobacco products in the City unless a notice is posted at any location where tobacco products are available for purchase. All notices must be posted in a manner conspicuous to both employees and consumers, unobstructed from view in their entirety, and within six feet of each register where tobacco products are available for purchase. The city of Flagstaff shall provide this notice, which shall state "NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS, INCLUDING ELECTRONIC SMOKING DEVICES." The notice must be at least 14" by 11" and the words on the notice must be legibly printed in a high contrast red color with capitalized letters at least one inch high.

7-09-001-0007 ENFORCEMENT

The tobacco retailer shall be subject to at least two unannounced compliance checks per year. The City or its authorized agent shall conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products. Unannounced follow-up compliance checks of all non-compliant tobacco retailers are required within three months of any violation of this Ordinance. The results of all compliance checks shall be published by the City or its authorized agent at least annually and made available to the public upon request.

7-09-001-0002~~8~~ PENALTIES

~~A. No person who owns, conducts, operates or manages a business where tobacco products are sold, or are available for sale from a vending machine, nor any person who sells or offers for sale tobacco products, shall place, store or display, or cause to be placed, stored or displayed, such tobacco products or vending machine in an area or manner that is accessible to the public without employee assistance.~~

~~B. A person is exempt from the requirements of this section if both:~~

~~1. The business where tobacco products are sold prohibits entry of individuals under the age of eighteen (18) years at all times; and~~

~~2. Photographic identification is required from any individual who appears to be twenty-six (26) years of age or younger prior to entering the business where tobacco products are sold.~~

~~C. A violation of this chapter is punishable as a civil offense or as a class 3 misdemeanor. Prior to the issuance of a criminal citation, the Chief of Police or his designated agent shall serve the person to be cited with a written notice of violation if a notice of violation for the same offense, or a substantially similar offense has not been served within the previous 180 (one hundred eighty) days. A notice of violation may be served by personal delivery or via certified mail, return receipt requested. Return of the receipt shall be prima facie evidence of service. If the violation has ceased within 14 (fourteen) days from the date of service of the notice, no criminal citation shall be issued. A person found in violation of this chapter is subject to a fine of one hundred dollars ($100.00) for the first offense and up to five hundred dollars ($500.00) for each subsequent offense, except that a violation may be charged as a class 2 criminal misdemeanor if the alleged violator has been responsible on three or more violations of this chapter.~~

A. Tobacco retailers. Any tobacco retailer found to have violated this Ordinance shall be subject to:

1. For a first violation, a fine no less than $500;

2. For a second violation within a thirty-six (36) month period, a fine no less than $750 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of seven (7) days;

3. For a third violation within a thirty-six (36) month period, a fine no less than $1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of thirty (30) days;

4. For a fourth and any subsequent violations within a thirty-six (36) month period, a fine no less than $1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a period of three (3) years.

B. Employees. Any person found to have violated this Ordinance while acting as a non-management agent or employee of a tobacco retailer shall be subject to non-criminal, non-monetary penalties, including, but not limited to education classes.

C. Other persons. Any person 21 years of age or older, besides a tobacco retailer or a tobacco retailer's agent or employee, who violates this Ordinance is subject to an administrative fine of $50.

7-09-001-0010 RELATED VIOLATIONS

A violation of any federal, state, or local law, ordinance provision, or other regulation relating to tobacco products is also a violation of this Ordinance. In addition to any other penalty, a tobacco retailer who violates any provision of this Ordinance or any federal, state, or local law, ordinance provision, or other regulation relating to tobacco products, shall be subject to penalties stated in this Ordinance, including fines and a prohibition of the sale of tobacco products

7-09-001-0011 EXCEPTIONS AND DEFENSES

A. The penalties in this Ordinance do not apply to a person younger than 21 years old who purchases or attempts to purchase tobacco products while under the direct supervision of City staff or their authorized appointees for training, education, research, or enforcement purposes.

B. Nothing in this Ordinance prohibits an underage person from handling tobacco products in the course of lawful employment by a tobacco retailer.

C. It shall be an affirmative defense to a violation of this Ordinance for a tobacco retailer or their agent or employee to have reasonably relied on valid government issued identification demonstrating proof of age.

7-09-001-0012 LIBERAL CONSTRUCTION

This Ordinance shall be liberally construed so as to further its purposes.

7-09-001-000313 SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

7-09-001-000414 EFFECTIVE DATE

The provisions of this Ordinance shall be enforceable 60 (sixty) days from the date this Ordinance becomes effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of July, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

13. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Future Agenda Item Request (F.A.I.R.): A request by Vice Mayor Aslan to place on a future agenda a discussion about a pond next to Ponderosa Trails neighborhood between Pulliam and I-17.

STAFF RECOMMENDED ACTION:

Council direction.

Executive Summary:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Vice Mayor Aslan has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are two other members of Council interested in placing it on a future agenda.

Financial Impact:

Policy Impact:

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Previous Council Decision on This:

Attachments:

13. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	06/27/2023
Meeting Date:	07/03/2023

TITLE:

Future Agenda Item Request (F.A.I.R.): A request by Councilmember House to place on a future agenda a discussion about designating Juneteenth as an official holiday for the City of Flagstaff

STAFF RECOMMENDED ACTION:

Council direction.

Executive Summary:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember House has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are two other members of Council interested in placing it on a future agenda.

Financial Impact:

Policy Impact:

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Previous Council Decision on This:

Attachments: