CITY COUNCIL REGULAR MEETING AGENDA

REGULAR COUNCIL MEETING
TUESDAY
SEPTEMBER 3, 2024

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

All City Council Meetings are live streamed on the city's YouTube page (https://www.youtube.com/@FlagstaffCityGovernment)

PUBLIC COMMENT

Verbal public comments not related to items appearing on the posted agenda may be provided during the "Open Call to the Public" at the beginning and end of the meeting and may only be provided in person.

Verbal public comments related to items appearing on the posted agenda may be given in person or online and will be taken at the time the item is discussed.

To provide online verbal comment on an item that appears on the posted agenda, use the link below.

ONLINE VERBAL PUBLIC COMMENT

Written comments may be submitted to publiccomment@flagstaffaz.gov. All comments submitted via email will be considered written comments and will be documented in 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. OPEN CALL TO THE PUBLIC

Open Call to the Public enables the public to address the Council about an item that is not on the prepared agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. Open Call to the Public appears on the agenda twice, at the beginning and at the end. The total time allotted for

the first Open Call to the Public is 30 minutes; any additional comments will be held until the second Open Call to the Public.

If you wish to address the Council in person at today'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 Open Call to the Public and Public Comment. 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. COUNCIL LIAISON REPORTS

6. 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 Appointments:** Sustainability Commission

STAFF RECOMMENDED ACTION:

Make two appointments for terms expiring February 2027

7. CONSENT AGENDA

All matters under Consent Agenda are considered by the City Council to be routine. Unless a member of City Council expresses a desire at the meeting to remove an item from the Consent Agenda for discussion, the Consent Agenda will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.

STAFF RECOMMENDED ACTION:

Approve the Consent Agenda as posted.

A. **Consideration and Approval of Contract:** Lone Tree Overpass Project - Award of the Fourth Amendment to the Design-Build Contract with Ames Construction to add GMP 2 in an amount not to exceed $25,688,601.15.

STAFF RECOMMENDED ACTION:

1. Award of the Fourth Amendment to the Design-Build Contract with Ames Construction to add GMP 2 in an amount not to exceed $25,688,601.15; and
2. Approve a time extension of 1,227 calendar days; and
3. Authorize the City Manager to execute the necessary documents.

B. **Consideration and Approval of Contract:** Purchase of two (2) 6-Wheel Snowplow Dump Trucks from RWC Group

STAFF RECOMMENDED ACTION:

1. Approve the equipment purchase for two (2) 2025 International HV507 SFA Heavy Duty plow trucks from RWC Group in the amount of $650,570.29 through cooperative purchase contract #CTR041813 with the Arizona Department of Administration, State procurement office and;
2. Authorize the City Manager to execute the necessary documents.

C. **Consideration and Approval of Contract:** Cooperative Purchase Contract with Zamboni Company USA, Inc. in the amount of $222,135.00, plus other fees and taxes, for a fully electric Zamboni ice resurfacing vehicle.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Zamboni Company USA, Inc. in the amount of $222,135.00, plus other fees and taxes, for a fully electric Zamboni ice resurfacing vehicle; and
2. Authorize the City Manager to execute the necessary documents.

D. **Consideration and Approval of Final Plat:** TLC PC Land Investors, LLC requests Final Plat approval for Ghost Tree at Pine Canyon (PZ-21-00155-08) located at 3201 South Clubhouse Circle, a 12-unit single-family home subdivision on 7.87 acres in the Single-Family Residential (R1) Zone.

STAFF RECOMMENDED ACTION:

Approve the Final Plat and authorize the Mayor to sign the Final Plat and City/Subdivider Agreement when notified by staff that all documents are ready for signature and recording.

E. **Consideration and Approval of Final Plat** TLC PC Land Investors, LLC requests Final Plat approval for Ghost Tree III at Pine Canyon (PZ-21-00155-06) located at 3201 South Clubhouse Circle, a 3-lot single-family home subdivision on 1.93 acres in the Single-Family Residential (R1) Zone.

STAFF RECOMMENDED ACTION:

Approve the Final Plat and authorize the Mayor to sign the Final Plat and City/Subdivider Agreement when notified by staff that all documents are ready for signature and recording.

F. **Consideration and Approval of Final Plat** PZ-23-00027-02: Final replat of lots 23-24 and Tract E of the "Final Plat for Coconino Ridge at Pine Canyon"

STAFF RECOMMENDED ACTION:

Approve the final plat and authorize the Mayor to sign the plat when notified by staff that all conditions have been met and documents are ready for recording.

G. **Consideration and Approval of Contract:** First Amendment to the Street Maintenance Program 2024, 2025 & 2026 Construction Manager at Risk (CMAR) with C and E Paving & Grading, LLC to add GMP 1 - Phase 2 and increase the amount of the contract by $398,279.40.

STAFF RECOMMENDED ACTION:

1. Approve the First Amendment to the Street Maintenance Program 2024, 2025 & 2026 CMAR with C and E Paving & Grading, LLC to add GMP 1 - Phase 2 and increase the amount of the contract by $398,279.40; and
2. Authorize the City Manager to execute the necessary documents.

H. **Rejection of All Proposals:** Website and/or Community Engagement Platform

STAFF RECOMMENDED ACTION:

Reject all proposals received in response to the Request for Proposals (RFP) MS2024-119 solicitation for Website and/or Community Engagement Platform.

8. REGULAR AGENDA

A. **Consideration and Approval of Contract:** Fiber Network Project - Award of Design-Build Services Contract to Wecom, LLC

STAFF RECOMMENDED ACTION:

1. Award the Design-Build Services Contract to Wecom, LLC; and
2. Authorize the City Manager to execute the necessary documents.

B. **Consideration and Adoption of Ordinance No. 2024-21:** An ordinance of the City Council of the City of Flagstaff accepting and approving an easement agreement and grant of easement from BNSF for the installation of a water line and fire hydrant for fire suppression purposes.

STAFF RECOMMENDED ACTION:

At the September 3, 2024 Council Meeting:

1) Read Ordinance No. 2024-21 by title only for the first time
2) City Clerk reads Ordinance No. 2024-21 by title only (if approved above)

At the September 17, 2024 Council Meeting:

3) Read Ordinance No. 2024-21 by title only for the final time
4) City Clerk reads Ordinance No. 2024-21 by title only (if approved above)
5) Adopt Ordinance No. 2024-21

C. **Consideration and Possible Action:** Use of the Council Initiative Fund.

STAFF RECOMMENDED ACTION:

Authorize the use of the Council Initiative Fund to support the Kinsey Elementary After School Program and discuss any other programs Council may like to consider funding within this fiscal year's Council Initiative Fund.

9. OPEN CALL TO THE PUBLIC

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

11. 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 _____, 2024.

_____
Stacy Saltzburg, MMC, City Clerk

THE CITY OF FLAGSTAFF ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 48-hour advance notice, reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (928) 213-2076 or email at stacy.saltzburg@flagstaffaz.gov to request an accommodation to participate in this public meeting.

NOTICE TO PARENTS AND LEGAL GUARDIANS: Parents and legal guardians have the right to consent before the City of Flagstaff makes a video or voice recording of a minor child, pursuant to A.R.S. § 1-602(A)(9). The Flagstaff City Council meetings are live-streamed and recorded and may be viewed on the City of Flagstaff's website. If you permit your child to attend/participate in a televised Council meeting, a recording will be made. You may exercise your right not to consent by not allowing your child to attend/participate in the meeting.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Stacy Saltzburg, City Clerk

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:
Consideration of Appointments: Sustainability Commission

STAFF RECOMMENDED ACTION:

Make two appointments for terms expiring February 2027

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.

The City of Flagstaff is committed to increasing diversity in every board and commission, please consider how the applicant stated they may contribute to this commitment.

There are six (6) applications on file for consideration by the Council as follows:

- Elijah Born (new applicant)
- Cameron Dakota Carlson (new applicant)
- Robert "Daniel" Duke (new applicant)
- Kayla Gundrum (new applicant)
- Paukla Pluta (new applicant)
- Moon Strangeweather (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: Councilmember House, Vice Mayor Aslan

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

Policy Impact:
Not applicable.

Previous Council Decision or Community Discussion:
None.

Options and Alternatives to Recommended Action:

1. Appoint two Commissioners: By appointing 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.

Connection to PBB Priorities and Objectives:
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.

Connection to Regional Plan:
None

Connection to Carbon Neutrality Plan:
None

Connection to 10-Year Housing Plan:
None

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)

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Christine Cameron, Project Manager III

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Contract: Lone Tree Overpass Project - Award of the Fourth Amendment to the Design-Build Contract with Ames Construction to add GMP 2 in an amount not to exceed $25,688,601.15.

STAFF RECOMMENDED ACTION:

1. Award of the Fourth Amendment to the Design-Build Contract with Ames Construction to add GMP 2 in an amount not to exceed $25,688,601.15; and
2. Approve a time extension of 1,227 calendar days; and
3. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Lone Tree Overpass Project ("Overpass" or "Project") has been under design since 2021 and involved extensive coordination with project partners (BNSF Railway, Arizona Department of Transportion, U.S. Army Corps of Engineers), City Council, City Boards and Comissions, and the public. This effort has resulted in a design for new rail improvements from Ponderosa Parkway to San Francisco Street, an extension of Lone Tree Road north to a new intersection with Route 66, a new overpass over the rail corridor and future Rio de Flag, and protected bicycle/pedestrian intersections and advanced multimodal improvements per the City's Active Transportation Master Plan.

This Fourth Amendment for Phase I of the Project will provide for the first phase of construction work which will complete improvements on Lone Tree Road from Brannen Avenue south to O'Leary Street. This contract also includes several items which contribute to the future Phase II of the project, including engineering post design services and esthetics coordination and production in anticipation of Amendment 5.

Financial Impact:

The Lone Tree Overpass Project (north of Butler Avenue) is currently budgeted in FY2024-2025 in the amount of $31,436,856 in the Transportation Fund (Prop 420), Account Number 047-10-112-3054-6. The Lone Tree Corridor Project (south of Butler Avenue) is currently budgeted in FY2024-2025 in the amount of $9,369,767 in the Transportation Fund (Prop 419), Account Number 048-10-118-3495-6. The cost for the public art design will be provided from the Beautification, Arts, and Sciences Program, Account Number 051-07-212-3567-5 with total project budget of $1.3 million in FY2024-2025.

The total contract for Amendment four is split accordingly:

PROJECT	ACCOUNT	COST
Lone Tree Overpass	047-10-112-3054-6	$10,574,380.77
Lone Tree Corridor	048-10-118-3495-6	$14,864,220.38
Beautification/Art	051-07-212-3567-5	$250,000.00

TOTAL $25,688,601.15

The Lone Tree Corridor Project (south of Butler Avenue) is projected to be over budget by approximately $5 million and staff will need to re-prioritize projects within Proposition 419 funding to balance this overage as part of FY2025-2026 budget process.

Policy Impact:
None.

Previous Council Decision or Community Discussion:
A previous City Council reviewed options for the Lone Tree Overpass Project and directed staff to prepare ballot language for a $73M bond project to be funded through secondary property tax in the 2018 election, which was passed by the Flagstaff voters.

On February 2, 2021, the City Council awarded the Design-Build to Ames Construction.
On September 7, 2021, the First Amendment to the Contract was approved.
On March 1, 2022, the Second Amendment to the Contract was approved.
On February 21, 2023, the Third Amendment, GMP 1, was approved.

Options and Alternatives to Recommended Action:
1. Approve the Fourth Amendment to the Design-Build Contract with Ames Construction as presented; or,
2. Reject the Fourth Amendment and direct staff to re-negotiate the terms and fee structure with Ames Construction.

Background and History:
The Lone Tree Overpass has been a planned project for over two decades in the Flagstaff community. The Lone Tree Overpass Study, which evaluated conceptual design options for the bridge and adjacent surface streets was completed in 2010. The goal of the Project is to provide better connectivity for the City's transportation network and provide a grade-separated crossing over the BNSF Railway corridor and the future Rio de Flag channel, which increases safety and convenience for vehicular and multi-modal commuters.

The Overpass project also coordinates with the future planned improvements of the Lone Tree Corridor reconstruction, which was studied in a report completed in 2006. The Lone Tree Corridor and Overpass serves to connect the southern area of town with the Route 66 corridor and provides an option that reduces congestion on other roadway corridors, including Milton Road. The two projects were integrated in design and construction to provide and cohesive and coordinated improvement north and south of the Butler Avenue Intersection along Lone Tree Road.

In November 2018, the voters were asked to approve a ballot measure to fund the Overpass (Proposition 420) and a separate ballot measure to fund the Corridor Improvements (Proposition 419). Both propositions passed.

In the fall of 2020, Ames Construction was selected by a six-member evaluation committee as the most qualified service provider for the Project pursuant to the evaluation and ranking process per A.R.S. sec. 34-603.

On February 2, 2021, Council awarded the Design-Build Contract with Ames Construction, on September 7, 2021, the First Amendment was approved, and on March 1, 2022, the Second Amendment was approved. These initial contracts included scope for preliminary roadway/bridge/intersection/rail design, agency coordination, right-of way acquisition and relocation, utility/drainage design and coordination, Economic Impact Study, public involvement, surveying, environmental clearances, and geotechnical analysis. The Third Amendment provided for an early construction work package that includes cost for demolition of existing buildings, railway shoring design, and contingencies for subsurface utility investigation, esthetics and public art design, environmental clean up.

This Fourth Amendment will deliver a substantial portion of the construction, which includes all underground,

roadway, and multimodal improvements from Brannen Avenue south to O'Leary Street.

Connection to PBB Priorities and Objectives:
Livable Community -
Provide amenities and activities that support a healthy lifestyle.
Achieve a well-maintained community through comprehensive and equitable code compliance and development.

Environmental Stewardship -
Strengthen Flagstaff's resilience to climate change impacts on built, natural, economic, health, and social systems
Implement and enhance sustainable building practices, waste diversion programs, alternative energy programs, and multimodal transportation options

Connection to Regional Plan:
Goal T.I. Improve mobility and access throughout the region.

- Policy T.1.1. Integrate a balanced, multimodal, regional transportation system.
- Policy T.1.2. Apply Complete Street Guidelines to accommodate all appropriate
- modes of travel in transportation improvement projects.
- Policy T.1.3. Transportation systems are consistent with the place type and needs
- of people.
- Policy T.1.4. Provide a continuous transportation system with convenient transfer
- from one mode to another.
- Policy T.1.5. Manage the operation and interaction of all modal systems for efficiency, effectiveness, safety, and to best mitigate traffic congestion.
- Policy T.1.6. Provide and promote strategies that increase alternate modes of
- travel and demand for vehicular travel to reduce peak period traffic.
- Policy T.1.7. Coordinate transportation and other public infrastructure investments efficiently to achieve land use and economic goals.
- Policy T.1.8. Plan for development to provide on-site, publicly-owned transportation improvements and provide adequate parking.

Connection to Carbon Neutrality Plan:
Decreased Dependence on Cars - DD-1 - Create inclusive networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient for people of all ages.

- Fund and implement the Active Transportation Master Plan.
- Fully fund bike and pedestrian infrastructure capital improvements to create complete and comfortable bike and pedestrian networks, safe routes to school improvements, and a complete and comfortable system of pedestrian crossings and sidewalks.
- Convert appropriate streets to multi-modal and complete streets through road diets or creating multi-modal lanes. When right-of-way is limited, redistribute the available space to accommodate more users and better reflect climate priorities.
- Create an integrated system of protected lands, the Flagstaff Urban Trail System, and trail corridors that support mode shift, public health, and affordable living.

Connection to 10-Year Housing Plan:
None

Connection to Division Specific Plan:
None

Attachments: Ames Fourth Amendment

Exhibit A - GMP 2
LTO LTC Vicinity Map
Context Map

AMENDMENT FOUR

Lone Tree Overpass Project
Design-Build Contract

Construction Services Phase – GMP 2

Project No. 03-19004
Contract No. 2021-23

This Fourth Amendment ("Forth Amendment") to the fully executed Design-Build Services Contract No. 2021-23 dated 2/26/2021 (the "Agreement") for the City of Flagstaff Lone Tree Overpass Project (the "Project") is made and entered into this ____ day of _____, 2024, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Ames Construction, an Arizona corporation with offices at 8333 East Hartford Drive, Scottsdale, Arizona 85255.

The parties to the Agreement for City of Flagstaff Lone Tree Overpass Project, the City of Flagstaff and Ames Construction, hereby agree to the following Fourth Amendment; all other provisions of the Agreement shall remain unchanged in full force and effect. New text is underlined.

ARTICLE 5 – CONTRACT PRICE

5.3 – GMP

Design-Builder's Lone Tree Overpass GMP 2 for the construction phase services portion of (Construction) work of the Project shall be **twenty-five million, six hundred and eighty-eight thousand, six hundred and one dollars and fifteen cents ($25,688,601.15).** The GMP 2 shall be for the complete performance of work in accordance with the Contract Documents and exhibits listed below, which are part of this Fourth Amendment, and which shall be incorporated into the Agreement by this Fourth Amendment as if fully set forth therein.

> EXHIBIT A – Ames Lone Tree Overpass GMP 2 – Final Pricing, dated 8/8/2024, 7 pages.

The total Contract Price under the Agreement, as amended by this Fourth Amendment, shall be **thirty-six million five hundred forty seven thousand three hundred ninety-one dollars and ninety-four cents ($36,547,391.94).**

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

The Scheduled Date of Completion of the work for the Lone Tree Overpass Project Phase I under this Fourth Amendment is an additional 1,227 calendar days from the Notice to Proceed with a substantial completion date of 12/31/2026.

IN WITNESS WHEREOF, the parties have caused this Fourth Amendment to be executed by their duly authorized representatives as of the date first written above. This Fourth Amendment will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

City of Flagstaff

By:_____
Greg Clifton, City Manager

Dated:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

Ames Construction

By:_____

Title:_____

Dated:_____

Lone Tree Overpass GMP 2 - Final Pricing
August 8, 2024
EXHIBIT A

LINE	AREA	BID ITEM	CLIENT #	DESCRIPTION	QTY	UNIT	BID U/P	COST
BUTLER - STA 99+00 TO BRANNEN								
1	BUTLER	20002	2020020	REMOVAL OF CONCRETE CURB	767	LF	$ 10.29	$ 7,892.43
2	BUTLER	20004	2020021	REMOVAL OF CONCRETE CURB & GUTTER	2,893	LF	$ 9.90	$ 28,640.70
3	BUTLER	20006	2020025	REMOVAL OF CONCRETE SIDEWALKS, DRIVEWAYS AND SLABS	15,190	SF	$ 2.72	$ 41,316.80
4	BUTLER	20008	2020029	REMOVAL OF ASPHALTIC CONCRETE PAVEMENT	9,744	SY	$ 16.49	$ 160,678.56
5	BUTLER	20012	2020033	REMOVE (DECORATIVE MEDIAN PAVING)	204	SY	$ 20.22	$ 4,124.88
6	BUTLER	22000	2030301	ROADWAY EXCAVATION	4,168	CY	$ 49.99	$ 208,358.32
7	BUTLER	22002	2030904	BORROW (IN PLACE)	821	CY	$ 62.89	$ 51,632.69
8	BUTLER	22004	3030022	AGGREGATE BASE, CLASS 2	4,500	CY	$ 198.38	$ 892,710.00
9	BUTLER	22004		AGGREGATE BASE, CL2 FLATWORK	355	CY	$ 272.44	$ 96,716.20
10	BUTLER	22006	4010006	PORTLAND CEMENT CONCRETE PAVEMENT (6")	1,025	SY	$ 111.00	$ 113,775.00
11	BUTLER	22008	4040111	BITUMINOUS TACK COAT	4	TON	$ 639.70	$ 2,558.80
12	BUTLER	22010	4040116	APPLY BITUMINOUS TACK COAT	18	HR	$ 298.52	$ 5,373.36
13	BUTLER	22016	4160004	ASPHALTIC CONCRETE (3/4" MIX) (END PRODUCT)(SPECIAL MIX)	3,671	TON	$ 207.90	$ 763,200.90
14	BUTLER	22028	9080101	CONCRETE CURB AND GUTTER, TYPE A (MAG DET. 220-1)	2,595	LF	$ 59.59	$ 154,636.05
15	BUTLER	22030	9080108	CONCRETE SINGLE CURB (MAG DET. 222) (TYPE A)	2,766	LF	$ 43.12	$ 119,269.92
16	BUTLER	22034	9080241	CONCRETE SIDEWALK (MAG DET. 230)	5,249	SF	$ 15.19	$ 79,732.31
17	BUTLER	22036	9080286	CONCRETE SIDEWALK RAMP	7	EA	$ 14,799.05	$ 103,593.35
18	BUTLER	22038	90802XX	PROTECTED INSTERSECTION CORNER & RAMPS	4	EA	$ 9,785.42	$ 39,141.68
19	BUTLER	22042	9080361	CONCRETE DRIVEWAY (MAG DET. 260)	8,668	SF	$ 26.50	$ 229,702.00
20	BUTLER	23002	2020053	REMOVE (CATCH BASIN)	7	EA	$ 3,341.51	$ 23,390.57
21	BUTLER	23006	5030003	CONCRETE CATCH BASIN (C-15.10) DOUBLE, H=8' OR LES	2	EA	$ 19,050.12	$ 38,100.24
22	BUTLER	23029		CATCH BASIN, TYPE I, ONE 6' WING (MAG DET. 542)	2	EA	$ 17,066.12	$ 34,132.24
23	BUTLER	23030	5030369	CATCH BASIN, TYPE I, ONE 6' WING, V>4' (MAG DET. 542)	2	EA	$ 17,763.00	$ 35,526.00
24	BUTLER	23033	5030370	CATCH BASIN, TYPE I, ONE 10' WING (MAG DET. 542)	5	EA	$ 17,763.00	$ 88,815.00
25	BUTLER	23034	5030371	CATCH BASIN, TYPE I, ONE 10' WING, V<4' (MAG DET. 542)	1	EA	$ 17,491.00	$ 17,491.00
26	BUTLER	23035	5030372	CATCH BASIN, TYPE I, ONE 17' WING (MAG DET. 542)	2	EA	$ 18,253.00	$ 36,506.00
27	BUTLER	23048	5050065	MANHOLE (MAG DET. 520 & 522)	2	EA	$ 13,966.60	$ 27,933.20
28	BUTLER	23054	5050091	MANHOLE (EXISTING MANHOLE ADJUST/RECONSTRUCT)	3	EA	$ 3,257.72	$ 9,773.16
29	BUTLER	23056	9170039	CURB INLET (PRECAST NEENAH FOUNDRY CURB OPENING INLET R-3262-4)	22	EA	$ 974.96	$ 21,449.12
30	BUTLER	23058	2020041	REMOVAL OF PIPE	263	LF	$ 125.96	$ 33,127.48
31	BUTLER	23068	5011012	PIPE, REINFORCED CONCRETE, CLASS II, 18"	102	LF	$ 333.51	$ 34,018.02
32	BUTLER	23069	5011506	PIPE, REINFORCED CONCRETE (CLASS III, 18" W/CEMENT-TREATED BED/BF)	56	LF	$ 374.12	$ 20,950.72
33	BUTLER	23074	5012519	STORM DRAIN PIPE, 18", HDPE	237	LF	$ 287.58	$ 68,156.46
34	BUTLER	23078	5012593	STORM DRAIN PIPE (24" W/ CEMENT-TREATED BEDDING & BACKFILL)	140	LF	$ 402.35	$ 56,329.00
35	BUTLER	23084	5030770	CONCRETE PIPE COLLAR (C-13.80)	3	EA	$ 2,206.08	$ 6,618.24
36	BUTLER	23086	5030771	PREFABRICATED TEE (C-13.70)	3	EA	$ 16,511.94	$ 49,535.82
37	BUTLER	23088	8080286	PIPE (PVC) (6")(PERFORATED WITH FILTER FABRIC AND 3/4" CLEAN GRAVEL)	394	LF	$ 55.60	$ 21,906.40
38	BUTLER	23090	9141801	PIPE PLUG (C-13.76)	3	EA	$ 1,381.69	$ 4,145.07
39	BUTLER	24000	30	REMOVE & DISPOSE WATERLINE	271	LF	$ 124.29	$ 33,682.59
40	BUTLER	24004	32	REMOVE & SALVAGE FIRE HYDRANT	2	EA	$ 3,932.91	$ 7,865.82
41	BUTLER	24008	35	REMOVE & DISPOSE ARV	1	EA	$ 662.98	$ 662.98
42	BUTLER	24010	130	ADJUST VALVE & COVER	1	EA	$ 1,963.62	$ 1,963.62
43	BUTLER	24300	301	8" CLASS 305 C-900 PVC OR CLASS 350 DIP WATERLINE	670	LF	$ 411.98	$ 276,026.60
44	BUTLER	24304	310	8" GATE VALVE, BOX, COVER, AND ASSEMBLY	3	EA	$ 4,311.82	$ 12,935.46
45	BUTLER	24308	315	8" STAINLESS STEEL TAPPING SLEEVE & VALVE	1	EA	$ 13,967.31	$ 13,967.31
46	BUTLER	24312	321	1" COMBINATION ARV	3	EA	$ 5,094.74	$ 15,284.22
47	BUTLER	24314	325	FIRE HYDRANT ASSEMBLY	2	EA	$ 14,697.66	$ 29,395.32
48	BUTLER	24318	340	CONNECT TO 8" PVC WATERLINE	1	NPI	$ 10,257.04	$ 10,257.04
49	BUTLER	24320	342	CONNECT TO 6" CI WATERLINE	1	NPI	$ 8,299.83	$ 8,299.83
50	BUTLER	24326	370	TRACER WIRE CONNECTION	1	LS	$ 3,416.58	$ 3,416.58
51	BUTLER	24330	041	REMOVE & DISPOSE MANHOLE	1	EA	$ 4,151.90	$ 4,151.90
52	BUTLER	24404	401	8" DIA. SDR-35 PVC SANITARY SEWER MAIN	690	LF	$ 356.17	$ 245,757.30
53	BUTLER	24406	410	48" MANHOLE	4	EA	$ 21,743.76	$ 86,975.04
54	BUTLER	24408	411	60" MANHOLE	3	EA	$ 25,309.65	$ 75,928.95
55	BUTLER	24410	415	4" SEWER SERVICE, VERIFY EX SERVICE LOCATION	1	EA	$ 3,251.93	$ 3,251.93
56	BUTLER	24412	450	PLUG 8" SEWER MAIN	2	EA	$ 777.49	$ 1,554.98
57	BUTLER	24414		PIPE TRENCH SHORING	1	LS	$ 30,342.69	$ 30,342.69
58	BUTLER	26000	2020047	REMOVAL OF SIGNS	24	EA	$ 671.17	$ 16,108.08
59	BUTLER	26004	6070039	SLIP BASE (FOR PERFORATED SIGN POST)	10	EA	$ 280.18	$ 2,801.80
60	BUTLER	26008	6070055	SIGN POST (PERFORATED) (2 1/2 S)	126	LF	$ 21.55	$ 2,715.30
61	BUTLER	26010	6070057	SIGN POST (PERFORATED) (2 1/2 T)	105	LF	$ 26.94	$ 2,828.70
62	BUTLER	26012	6070060	FOUNDATION FOR SIGN POST (CONCRETE)	20	EA	$ 377.17	$ 7,543.40
63	BUTLER	26014	6080005	REGULATORY, WARNING, OR MARKER SIGN PANEL	365	SF	$ 64.66	$ 23,600.90
64	BUTLER	26016	6080025	FLAT SHEET ALUMINUM SIGN PANEL	20	SF	$ 107.76	$ 2,155.20
65	BUTLER	26018	7040075	PAVEMENT MARKING (PORTLAND GREEN)	4,165	SF	$ 3.52	$ 14,660.80
66	BUTLER	26020	7080201	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED) (WHITE)	7,753	LF	$ 0.41	$ 3,178.73
67	BUTLER	26022	7080202	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED) (YELLOW)	4,039	LF	$ 0.41	$ 1,655.99
68	BUTLER	26024	7080204	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED SYMBOL)	49	EA	$ 410.99	$ 20,138.51
69	BUTLER	26026	7080207	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED LEGEND)	7	EA	$ 528.42	$ 3,698.94
70	BUTLER	26028	7090001	DUAL COMPONENT PAVEMENT MARKING (WHITE EPOXY)	10,958	LF	$ 1.12	$ 12,272.96
71	BUTLER	26030	7090002	DUAL COMPONENT PAVEMENT MARKING (YELLOW EPOXY)	4,039	LF	$ 1.12	$ 4,523.68
72	BUTLER	26032	7090005	DUAL COMPONENT PAVEMENT MARKING (TRANSVERSE)	4,324	LF	$ 11.74	$ 50,763.76
73	BUTLER	26034	7090010	DUAL COMPONENT PAVEMENT LEGEND	7	EA	$ 528.42	$ 3,698.94
74	BUTLER	26036	7090012	DUAL COMPONENT PAVEMENT SYMBOL	49	EA	$ 528.42	$ 25,892.58
75	BUTLER	26504	7050032	PAVEMENT MARKING, PREFORMED, TYPE 2 WHITE STRIPE	14,005	LF	$ 3.23	$ 45,236.15
76	BUTLER	26506	7050031	PAVEMENT MARKING, PREFORMED, TYPE 2 YELLOW STRIPE	15,000	LF	$ 0.41	$ 6,150.00
77	BUTLER	26508	7080201	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED) (WHITE)	5,982	LF	$ 0.41	$ 2,452.62
78	BUTLER	26510	7080202	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED) (YELLOW)	8,729	LF	$ 0.41	$ 3,578.89
79	BUTLER	26512	7015051	OBLITERATE PAVEMENT MARKING (ARROW, SYMBOL OR LEGEND)	30	EA	$ 176.14	$ 5,284.20
80	BUTLER	26514	7015052	OBLITERATE PAVEMENT MARKING (STRIPE)	27,074	LF	$ 0.88	$ 23,825.12
81	BUTLER	26516	7015091	SPECIALTY SIGNS	74	SF	$ 21.83	$ 1,615.42
82	BUTLER	27002	7310070	POLE (TYPE G) (STANDARD BASE)	4	EA	$ 4,632.77	$ 18,531.08
83	BUTLER	27006	7310130	POLE (TYPE Q)	2	EA	$ 17,635.61	$ 35,271.22
84	BUTLER	27008	7310140	POLE (TYPE R)	2	EA	$ 18,942.17	$ 37,884.34

LINE	AREA	BID ITEM	CLIENT #	DESCRIPTION	QTY	UNIT	BID U/P	COST
85	BUTLER	27010	7310195	POLE (PEDESTRIAN PUSH BUTTON)	5	EA	$ 1,714.84	$ 8,574.20
86	BUTLER	27014	7310260	POLE FOUNDATION (TYPE G) (STANDARD BASE)	4	EA	$ 2,168.37	$ 8,673.48
87	BUTLER	27016	7310310	POLE FOUNDATION (TYPE Q)	2	EA	$ 5,404.26	$ 10,808.52
88	BUTLER	27018	7310320	POLE FOUNDATION (TYPE R)	2	EA	$ 5,439.50	$ 10,879.00
89	BUTLER	27020	7310390	PEDESTRIAN PUSH BUTTON POST FOUNDATION	5	EA	$ 1,003.52	$ 5,017.60
90	BUTLER	27022	7310551	MAST ARM (20 FT.) (TAPERED)	8	EA	$ 2,445.76	$ 19,566.08
91	BUTLER	27026	7310580	MAST ARM (35 FT.) (TAPERED)	2	EA	$ 6,093.76	$ 12,187.52
92	BUTLER	27028	7310602	MAST ARM (45 FT.) (TAPERED)	2	EA	$ 9,031.71	$ 18,063.42
93	BUTLER	27030	7320030	ELECTRICAL CONDUIT (2.5") (PVC)	30	LF	$ 43.00	$ 1,290.00
94	BUTLER	27034	7320050	ELECTRICAL CONDUIT (2") (PVC)	95	LF	$ 51.63	$ 4,904.85
95	BUTLER	27036	7320070	ELECTRICAL CONDUIT (3") (PVC)	245	LF	$ 45.69	$ 11,194.05
96	BUTLER	27038	7320072	ELECTRICAL CONDUIT (3 - 3") (PVC)	5	LF	$ 70.00	$ 350.00
97	BUTLER	27040	7320073	ELECTRICAL CONDUIT (2 - 3") (PVC)	510	LF	$ 43.00	$ 21,930.00
98	BUTLER	27042	7320291	ELECTRICAL CONDUIT (2 - 3") (HDPE) (DIRECTIONAL DRILL)	510	LF	$ 137.59	$ 70,170.90
99	BUTLER	27044	7320440	PULL BOX (NO. 5)	1	EA	$ 2,430.00	$ 2,430.00
100	BUTLER	27046	7320420	PULL BOX (NO. 7)	4	EA	$ 2,279.28	$ 9,117.12
101	BUTLER	27048	7320421	PULL BOX (NO. 7) (WITH EXTENSION)	4	EA	$ 3,958.44	$ 15,833.76
102	BUTLER	27050	7320651	CONDUCTORS (TRAFFIC SIGNALS)	1	LS	$ 33,411.58	$ 33,411.58
103	BUTLER	27052	7330061	TRAFFIC SIGNAL FACE (TYPE F) (MODIFIED LED)	12	EA	$ 1,049.94	$ 12,599.28
104	BUTLER	27054	7330070	TRAFFIC SIGNAL FACE (TYPE G) (MODIFIED LED)	5	EA	$ 1,441.58	$ 7,207.90
105	BUTLER	27056	7330137	TRAFFIC SIGNAL FACE (TYPE R) (MODIFIED LED)	7	EA	$ 1,091.35	$ 7,639.45
106	BUTLER	27057		TRAFFIC SIGNAL FACE (TYPE B) (MODIFIED LED)	5	EA	$ 1,129.46	$ 5,647.30
107	BUTLER	27058	7330211	PEDESTRIAN SIGNAL (MAN/HAND) (LED)	8	EA	$ 829.26	$ 6,634.08
108	BUTLER	27060	7330310	TRAFFIC SIGNAL MOUNTING ASSEMBLY (TYPE II)	14	EA	$ 303.55	$ 4,249.70
109	BUTLER	27062	7330340	TRAFFIC SIGNAL MOUNTING ASSEMBLY (TYPE V)	17	EA	$ 708.17	$ 12,038.89
110	BUTLER	27066	7330360	TRAFFIC SIGNAL MOUNTING ASSEMBLY (TYPE VII)	3	EA	$ 792.20	$ 2,376.60
111	BUTLER	27070	7340040	CONTROL CABINET (TYPE IV)	1	EA	$ 10,150.64	$ 10,150.64
112	BUTLER	27072	7340105	CONTROL CABINET FOUNDATION	1	EA	$ 4,120.68	$ 4,120.68
113	BUTLER	27074	7340251	CONTROLLER (MODEL 2070)	1	EA	$ 37,403.61	$ 37,403.61
114	BUTLER	27076	7350060	PEDESTRIAN PUSH BUTTON	13	EA	$ 837.59	$ 10,888.67
115	BUTLER	27078		RADAR DETECTION SYSTEM W/ ADVANCE	1	EA	$ 48,150.00	$ 48,150.00
116	BUTLER	27080	7350551	OPTICOM PRE-EMPTION UNIT	4	EA	$ 14,631.68	$ 58,526.72
117	BUTLER	27082	7360104	LUMINAIRE (HORIZONTAL MOUNT) (6,000 LUMEN) (LED)	8	EA	$ 2,371.65	$ 18,973.20
118	BUTLER	27084	7360240	LOAD CENTER CABINET FOUNDATION	1	EA	$ 7,266.65	$ 7,266.65
119	BUTLER	27086	7360243	LOAD CENTER CABINET (TYPE IV) (UPS / METER PEDESTAL)	1	EA	$ 20,040.91	$ 20,040.91
120	BUTLER	27088	7370705	CCTV FIELD EQUIPMENT	1	EA	$ 61,222.29	$ 61,222.29
121	BUTLER	27090	9240055	MISCELLANEOUS WORK (REMOVE TRAFFIC SIGNAL - LONE TREE AND BUTLER)	1	LS	$ 25,600.55	$ 25,600.55
122	BUTLER	27092	9240057	MISCELLANEOUS WORK (TEMP SIGNAL - BUTLER)	1	LS	$ 126,750.18	$ 126,750.18
123	BUTLER	27094		MISCELLANEOUS WORK (NON-AERODYNAMIC DAMPER SYSTEM)	4	EA	$ 5,500.00	$ 22,000.00
124	BUTLER	27300	2020053	REMOVE (MAST ARM AND LUMINAIRE ON UTILITY POLE)	1	EA	$ 1,070.92	$ 1,070.92
125	BUTLER	27302	2020054	REMOVE (PULL BOX)	4	EA	$ 474.21	$ 1,896.84
126	BUTLER	27304		REMOVAL OF EXISTING CONDUCTORS	1,000	LF	$ 3.10	$ 3,100.00
127	BUTLER	27306	7310190	POLE (CITY 38') (DIRECT BURY)	6	EA	$ 3,933.89	$ 23,603.34
128	BUTLER	27312	7310650	MAST ARM (8 FT.) (FOR CITY POLE)	6	EA	$ 1,101.29	$ 6,607.74
129	BUTLER	27314	7310812	REMOVE AND SALVAGE EXISTING LIGHTING POLES	4	EA	$ 1,784.87	$ 7,139.48
130	BUTLER	27318	7320030	ELECTRICAL CONDUIT (1") (PVC)	80	LF	$ 37.21	$ 2,976.80
131	BUTLER	27320	7320060	ELECTRICAL CONDUIT (2-1/2") (PVC)	1,413	LF	$ 51.48	$ 72,741.24
132	BUTLER	27326	7320410	PULL BOX (NO. 5)	2	EA	$ 1,547.26	$ 3,094.52
133	BUTLER	27338	7320591	CONDUCTOR (INSULATED BOND)	2,000	LF	$ 2.48	$ 4,960.00
134	BUTLER	27342	7360110	LUMINAIRE (LED) (NARROW BAND AMBER) (6,000 LUMENS)	6	EA	$ 2,371.65	$ 14,229.90
135	BUTLER	27352	9240010	FORCE ACCOUNT WORK (ELECTRICAL SERVICE)	1	LS	$ 25,000.00	$ 25,000.00
136	BUTLER	28024	8070060	LATERAL LINE FLUSH END CAPS	10	EA	$ 62.80	$ 628.00
137	BUTLER	28026		SCH 40 PVC PIPE (1-1/2") - MAINLINE	600	LF	$ 12.00	$ 7,200.00
138	BUTLER	28028	8070070	SCH 40 PVC PIPE (3/4") - LATERAL LINE	4,500	LF	$ 6.83	$ 30,735.00
139	BUTLER	28030	8070075	SCH 40 PVC PIPE (4") - SLEEVE	400	LF	$ 28.60	$ 11,440.00
140	BUTLER	28200	2010001	CLEARING & GRUBBING	0.5	LS	$ 4,891.22	$ 2,445.61
141	BUTLER	28202	2010004	PRESERVATION FENCING	200	LF	$ 50.00	$ 10,000.00
142	BUTLER	28204	8020011	LANDSCAPE GRADING (RECESSED PLANTING AREAS)	387	SF	$ 7.00	$ 2,709.00
143	BUTLER	28208	8030040	GRANITE MULCH (SCREENED) (1/2")	1,400	SY	$ 16.76	$ 23,464.00
144	BUTLER	28210	8030074	DECORATIVE BOULDERS (2' X 2' X 1')	49	EA	$ 178.90	$ 8,766.10
145	BUTLER	28212	8030076	DECORATIVE BOULDERS (3' X 3' X 1.5')	13	EA	$ 243.59	$ 3,166.67
146	BUTLER	28218	8061005	TREE (15 GALLON)	25	EA	$ 331.05	$ 8,276.25
147	BUTLER	28220	8061008	TREE (45 GALLON)	4	EA	$ 1,303.99	$ 5,215.96
148	BUTLER	28222	8061296	SHRUB (ONE GALLON)	125	EA	$ 21.53	$ 2,691.25
149	BUTLER	28224	8061298	SHRUB (FIVE GALLON)	155	EA	$ 46.11	$ 7,147.05
150	BUTLER	28226	8061700	LANDSCAPE PRUNING	12	HR	$ 110.93	$ 1,331.16
151	BUTLER	28241	9240184	MISCELLANEOUS WORK (LANDSCAPE MAINTENANCE)	12	MO	$ 1,675.68	$ 20,108.16
152	BUTLER	28244	9312002	DECORATIVE CONCRETE TREATMENT (HEAVY BROOM FINISH WITH INTEGRAL COLOR)	704	SF	$ 15.00	$ 10,560.00
153	BUTLER	28246	9312004	DECORATIVE CONCRETE TREATMENT (STAMPED WITH INTEGRAL COLOR)	162	SF	$ 15.00	$ 2,430.00
154	BUTLER	28248		CINDERS 3/8"	600	SY	$ 7.51	$ 4,506.00
155	BUTLER	70100	9901010	MOBILIZATION	1	LS	$ 263,429.94	$ 263,429.94
							SUBTOTAL	**$ 6,337,305.47**
	BUTLER	70200	9901020	GENERAL CONDITIONS & SUPERVISION	1	LS	$ 1,447,957.25	**$ 1,447,957.25**
							BUTLER SUBTOTAL	**$ 7,785,262.72**

LINE	AREA	BID ITEM	CLIENT #	DESCRIPTION	QTY	UNIT	BID U/P	COST

BUTLER SUMMARY				COST
COST OF WORK			SUBTOTAL	$ 6,337,305.47
GENERAL CONDITIONS	22.8%			$ 1,447,957.25
			SUBTOTAL	$ 7,785,262.72
OVERHEAD/PROFIT	12.0%			$ 934,231.53
			SUBTOTAL	$ 8,719,494.25
TAX (65% of 9.2%) GROSS REC TAX	5.64%			$ 492,003.92
			SUBTOTAL	$ 9,211,498.16
BOND (RATE = 0.525%)	0.525%			$ 48,360.37
GMP002 COST			SUBTOTAL	$ 9,259,858.53
GMP002 - OWNER CONTINGENCY	5%			$ 462,992.93
GMP002 - GENERAL CONTRACTOR CONTINGENCY	2%			$ 185,197.17
TRAFFIC CONTROL ALLOWANCE				$ 433,235.16
SWPPP ALLOWANCE				$ 163,512.49
WSP POST DESIGN SERVICES - QUOTE DATED 1-12-24				$ 69,584.50
ART/FORMLINER/AESTHETICS MATERIAL BUY AND REVIEW				$ 250,000.00
GMP002 LTO COST				$ 10,824,380.77

LINE	AREA	BID ITEM	CLIENT #	DESCRIPTION	QTY	UNIT	BID U/P	COST
LONE TREE - STA 99+00 TO O'LEARY								
156	S LONE TREE	30010	1	REMOVE AND DISPOSE ASPHALT	7,269	SY	$ 16.34	$ 118,775.46
157	S LONE TREE	30020	2	REMOVE AND DISPOSE CONCRETE	17,323	SF	$ 2.52	$ 43,653.96
158	S LONE TREE	30030	3	REMOVE AND DISPOSE CURB	5,467	LF	$ 9.76	$ 53,357.92
159	S LONE TREE	30040	4	REMOVE AND DISPOSE PAVERS	1,620	SF	$ 2.83	$ 4,584.60
160	S LONE TREE	30050	10	REMOVE AND DISPOSE CONCRETE DRIVEWAY	1,200	SF	$ 4.90	$ 5,880.00
161	S LONE TREE	30060	15	REMOVE AND DISPOSE CURB RAMP	9	EA	$ 102.06	$ 918.54
162	S LONE TREE	30070	20	REMOVE AND DISPOSE OF WALL	30	LF	$ 111.07	$ 3,332.10
163	S LONE TREE	30080	30	REMOVE AND SALVAGE FIRE HYDRANT & ASSEMBLY	4	EA	$ 3,314.89	$ 13,259.56
164	S LONE TREE	30090	40	REMOVE AND DISPOSE GUARD RAIL	210	LF	$ 15.23	$ 3,198.30
165	S LONE TREE	30100	41	REMOVE AND DISPOSE CONCRETE BARRIER	180	LF	$ 207.82	$ 37,407.60
166	S LONE TREE	30110	45	REMOVE AND DISPOSE MANHOLE	4	EA	$ 853.05	$ 3,412.20
167	S LONE TREE	30120	50	REMOVE AND DISPOSE CATCH BASIN	4	EA	$ 1,044.84	$ 4,179.36
168	S LONE TREE	30130	51	REMOVE AND DISPOSE STORM DRAIN	570	LF	$ 89.63	$ 51,089.10
169	S LONE TREE	30140	52	REMOVE AND DISPOSE METAL SCUPPER	1	EA	$ 886.94	$ 886.94
170	S LONE TREE	30150	55	REMOVE AND DISPOSE SCUPPERS IN SERIES	2	EA	$ 468.75	$ 937.50
171	S LONE TREE	30160	60	REMOVE AND SALVAGE SIGN. DISPOSE OF POST & FOOTING	26	EA	$ 175.02	$ 4,550.52
172	S LONE TREE	30180	80	REMOVE AND SALVAGE SIGNAL POLE, MAST ARM AND LUMINAIRE	8	EA	$ 4,772.93	$ 38,183.44
173	S LONE TREE	30190	81	REMOVE AND SALVAGE SIGNAL CABINET & BATTERY BACKUP	3	EA	$ 2,298.17	$ 6,894.51
174	S LONE TREE	30200	85	REMOVE AND SALVAGE LIGHT POLE, MAST ARM AND LUMINAIRE	7	EA	$ 2,895.98	$ 20,271.86
175	S LONE TREE	30210	91	REMOVE AND DISPOSE OF TREE, STUMP AND ROOT BALL	1	LS	$ 70,323.49	$ 70,323.49
176	S LONE TREE	30220	95	CLEAR AND GRUB WITHIN CONSTRUCTION LIMITS	1	LS	$ 48,420.27	$ 48,420.27
177	S LONE TREE	31130	130	ADJUST WATER VALVE TO FINISHED GRADE	16	EA	$ 1,964.55	$ 31,432.80
178	S LONE TREE	31140	140	ADJUST MANHOLE FRAME AND LID TO FINISHED GRADE	8	EA	$ 2,683.43	$ 21,467.44
179	S LONE TREE	31170	170	ADJUST MISCELLANEOUS UTILITY APPURTENANCE TO FINISH GRADE.	3	EA	$ 1,964.55	$ 5,893.65
180	S LONE TREE	32000	200	6"AC/11"ABC PAVEMENT SECTION W/ GEOGRID	10,007	SY	$ 281.50	$ 2,816,970.50
181	S LONE TREE	32010	201	PAVEMENT SECTION DETAIL B SHEET G1.2	1,724	SY	$ 145.73	$ 251,238.52
182	S LONE TREE	32030	205	6"PCC/4"ABC SHARED USE PATH	41,405	SF	$ 15.41	$ 638,051.05
183	S LONE TREE	32035		RIPRAP CHANNEL D50=6"	49	CY	$ 356.63	$ 17,474.87
184	S LONE TREE	32040	207	4"PCC/3" ABC SIDEWALK	2,007	SF	$ 21.89	$ 43,933.23
185	S LONE TREE	32050	208	4"PCC/3" ABC MEDIAN PAVING	1,490	SF	$ 31.39	$ 46,771.10
186	S LONE TREE	32060	209	CONCRETE BUS SHELTER PAD	272	SF	$ 57.10	$ 15,531.20
187	S LONE TREE	32070	210	COMMERCIAL DRIVEWAY ENTRANCE	623	SF	$ 42.45	$ 26,446.35
188	S LONE TREE	32080	211	9"PCCP/16"ABC CONCRETE APRON	2,930	SF	$ 40.59	$ 118,928.70
189	S LONE TREE	32090	212	6" PCCP/4"ABC CONCRETE ISLAND PAVING	716	SF	$ 34.24	$ 24,515.84
190	S LONE TREE	32100	215	BIKE LANE ENTRANCE/EXIT RAMP	5	EA	$ 6,700.96	$ 33,504.80
191	S LONE TREE	32110	220	MAG TYPE A C&G ON 3" ABC	3,220	LF	$ 59.38	$ 191,203.60
192	S LONE TREE	32120	221	MAG 220-1 TYPE A MODIFIED CURB ON 3" ABC	2,454	LF	$ 62.91	$ 154,381.14
193	S LONE TREE	32125	222	MAG DETAIL 222-A VERTICAL CURB	627	LF	$ 54.17	$ 33,964.59
194	S LONE TREE	32126	223	TYPE A SINGLE CURB (FOOTBALLS, AT CHURCHILL & REI CATCH BASINS) (MAG 222)	345	LF	$ 57.66	$ 19,892.70
195	S LONE TREE	32130	226	CURB TERMINATION	7	EA	$ 2,424.43	$ 16,971.01
196	S LONE TREE	32140	228	SIDEWALK TERMINATION	1	EA	$ 2,121.63	$ 2,121.63
197	S LONE TREE	32150	230	6"PCC/4"ABC CURB RAMP	4,829	SF	$ 23.49	$ 113,433.21
198	S LONE TREE	32160	231	9" PCCP/16" ABC CONCRETE APRON (MOUNTABLE AREA OF INTERSECTION CORNERS)	1,036	SF	$ 42.85	$ 44,392.60
199	S LONE TREE	32180	240	W-BEAM GUARDRAIL	103	LF	$ 50.76	$ 5,228.28
200	S LONE TREE	32190	241	GUARD RAIL TRANSITION	5	EA	$ 5,076.14	$ 25,380.70
201	S LONE TREE	32200	242	GUARD RAIL END ANCHOR	1	EA	$ 2,538.07	$ 2,538.07
202	S LONE TREE	32230	250	ADOT C-15.20 TYPE 3 CATCH BASIN	11	EA	$ 20,261.00	$ 222,871.00
203	S LONE TREE	32240	251	MAG 542 TYPE I CATCH BASIN	1	EA	$ 17,763.00	$ 17,763.00
204	S LONE TREE	32250	252	MAG 537 TYPE G CATCH BASIN	2	EA	$ 20,261.00	$ 40,522.00
205	S LONE TREE	32255	254	STORM DRAIN MANHOLE (MAG 520-522)	3	EA	$ 15,255.12	$ 45,765.36
206	S LONE TREE	32260	255	18" CHDPE PIPE	305	LF	$ 510.70	$ 155,763.50
207	S LONE TREE	32262	256	24" CHDPE PIPE	31	LF	$ 557.65	$ 17,287.15
208	S LONE TREE	32264	257	30" CHDPE PIPE	32	LF	$ 598.60	$ 19,155.20
209	S LONE TREE	32266	258	36" CHDPE PIPE	422	LF	$ 610.61	$ 257,677.42
210	S LONE TREE	32268	259	HEADWALL (ADOT SD-6.30)	1	EA	$ 3,580.00	$ 3,580.00
211	S LONE TREE	32270	260	VALLEY GUTTER	395	SF	$ 47.10	$ 18,604.50
212	S LONE TREE	32280	270	OVERHANG BARRIER (INCL FOOTING, SLAB, PINS AND RAILING)	51	LF	$ 2,396.43	$ 122,217.93
213	S LONE TREE	32290	271	STRUCTURAL TOEDOWN BARRIER (INCLUDES 30" SW SLAB, RAILING, AND 4'6" MAX WALL)	84	LF	$ 3,044.80	$ 255,763.20
214	S LONE TREE	32310	272	HEADWALL PENETRATION	6	EA	$ 6,942.60	$ 41,655.60
215	S LONE TREE	32320	273	BOX CULVERT PENETRATION	1	EA	$ 6,942.60	$ 6,942.60
216	S LONE TREE	32322	275	CUT SLOPE V-DITCH (DETAIL J)	358	LF	$ 31.30	$ 11,205.40
217	S LONE TREE	32324	276	12" THICK D50=6" RIPRAP (DETAIL I)	1,497	SF	$ 13.25	$ 19,835.25
218	S LONE TREE	32326	277	FILL SLOPE V-DITCH (DETAIL M)	499	LF	$ 40.36	$ 20,139.64
219	S LONE TREE	32330	280	RETAINING WALL	159	LF	$ 1,420.83	$ 225,911.97
220	S LONE TREE	32340	299	INSTALL SURVEY MONUMENTS DISTURBED BY CONSTRUCTION	1	LS	$ 10,700.54	$ 10,700.54
221	S LONE TREE	33000	300	FIRE HYDRANT ASSEMBLY	4	EA	$ 14,853.30	$ 59,413.20
222	S LONE TREE	33010	305	RECONSTRUCT MANHOLE CONE AS NECESSARY TO MOVE LID OUT OF CURB	1	EA	$ 4,396.06	$ 4,396.06
223	S LONE TREE	33210	321	1" COMBINATION ARV	1	EA	$ 9,748.06	$ 9,748.06
224	S LONE TREE	33600	360	FULL VERTICAL REALIGNMENT	1	EA	$ 34,699.57	$ 34,699.57
225	S LONE TREE	33610	405	RECONSTRUCT MANHOLE CONE AS NECESSARY TO MOVE LID OUT OF CURB 48" MH	1	EA	$ 4,578.37	$ 4,578.37
226	S LONE TREE	33620	406	RECONSTRUCT MANHOLE CONE AS NECESSARY TO MOVE LID OUT OF CURB 60" MH	1	EA	$ 4,578.37	$ 4,578.37
227	S LONE TREE	33630		PIPE TRENCH SHORING	1	LS	$ 30,421.41	$ 30,421.41
228	S LONE TREE	36000	7050032	PAVEMENT MARKING, PREFORMED, TYPE 2 WHITE STRIPE	7,633	LF	$ 3.64	$ 27,784.12
229	S LONE TREE	36010	7050031	PAVEMENT MARKING, PREFORMED, TYPE 2 YELLOW STRIPE	9,486	LF	$ 0.41	$ 3,889.26
230	S LONE TREE	36020	7080201	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED) (WHITE)	3,274	LF	$ 0.41	$ 1,342.34
231	S LONE TREE	36030	7080202	WATERBORNE-TYPE I PAVEMENT MARKING (PAINTED) (YELLOW)	5,925	LF	$ 0.41	$ 2,429.25
232	S LONE TREE	36040	7015051	OBLITERATE PAVEMENT MARKING (ARROW, SYMBOL OR LEGE	17	EA	$ 176.14	$ 2,994.38
233	S LONE TREE	36050	7015052	OBLITERATE PAVEMENT MARKING (STRIPE)	8,100	LF	$ 0.88	$ 7,128.00
234	S LONE TREE	36060	7015091	SPECIALTY SIGNS	74	SF	$ 21.83	$ 1,615.42
235	S LONE TREE	37000	905	(2) 3" SCHEDULE 40 PVC CONDUITS	700	LF	$ 66.32	$ 46,424.00
236	S LONE TREE	37001	906	ADOT #9 PULLBOX	4	EA	$ 14,061.08	$ 56,244.32
237	S LONE TREE	37002	2020054	REMOVE (PULL BOX)	8	EA	$ 517.53	$ 4,140.24
238	S LONE TREE	37003	2020120	REMOVAL OF EXISTING CONDUCTORS	800	LF	$ 20.90	$ 16,720.00
239	S LONE TREE	37004	7310190	POLE (CITY 38') (DIRECT BURY)	12	EA	$ 3,993.33	$ 47,919.96

LINE	AREA	BID ITEM	CLIENT #	DESCRIPTION	QTY	UNIT	BID U/P	COST
240	S LONE TREE	37005	7310650	MAST ARM (8 FT.)	12	EA	$ 1,101.28	$ 13,215.36
241	S LONE TREE	37006	7310812	REMOVE AND SALVAGE EXISTING LIGHTING POLES	6	EA	$ 1,784.87	$ 10,709.22
242	S LONE TREE	37007	7320030	ELECTRICAL CONDUIT (1") (PVC)	100	LF	$ 37.21	$ 3,721.00
243	S LONE TREE	37008	7320060	ELECTRICAL CONDUIT (2-1/2") (PVC)	2,000	LF	$ 50.91	$ 101,820.00
244	S LONE TREE	37009	7320070	ELECTRICAL CONDUIT (3") (PVC)	388	LF	$ 54.15	$ 21,010.20
245	S LONE TREE	37010	7320410	PULL BOX (NO. 5)	13	EA	$ 1,498.59	$ 19,481.67
246	S LONE TREE	37011	7320591	CONDUCTOR (INSULATED BOND)	1,600	LF	$ 3.82	$ 6,112.00
247	S LONE TREE	37012	7360110	LUMINAIRE (HORIZONTAL MOUNT) (NBA 6000 LUMENS)	12	EA	$ 2,371.65	$ 28,459.80
248	S LONE TREE	37013	7370455	MISCELLANEOUS ELECTRICAL (RECORD DRAWINGS & DEVICE	1	LS	$ 11,994.15	$ 11,994.15
249	S LONE TREE	37302	7310012	POLE (TYPE A) (10 FT.)	7	EA	$ 2,005.08	$ 14,035.56
250	S LONE TREE	37304	7310070	POLE (TYPE G) (STANDARD BASE)	1	EA	$ 5,481.03	$ 5,481.03
251	S LONE TREE	37306	7310130	POLE (TYPE Q)	5	EA	$ 17,200.46	$ 86,002.30
252	S LONE TREE	37308	7310140	POLE (TYPE R)	2	EA	$ 19,042.49	$ 38,084.98
253	S LONE TREE	37310	7310195	POLE (PEDESTRIAN PUSH BUTTON)	10	EA	$ 1,728.00	$ 17,280.00
254	S LONE TREE	37312	7310200	POLE FOUNDATION (TYPE A)	7	EA	$ 2,620.44	$ 18,343.08
255	S LONE TREE	37314	7310260	POLE FOUNDATION (TYPE G) (STANDARD BASE)	1	EA	$ 2,420.56	$ 2,420.56
256	S LONE TREE	37316	7310310	POLE FOUNDATION (TYPE Q)	5	EA	$ 4,363.67	$ 21,818.35
257	S LONE TREE	37318	7310320	POLE FOUNDATION (TYPE R)	2	EA	$ 4,134.59	$ 8,269.18
258	S LONE TREE	37320	7310390	PEDESTRIAN PUSH BUTTON POST FOUNDATION	10	EA	$ 1,325.65	$ 13,256.50
259	S LONE TREE	37322	7310551	MAST ARM (20 FT.) (TAPERED)	8	EA	$ 1,971.27	$ 15,770.16
260	S LONE TREE	37324	7310565	MAST ARM (25 FT.) (TAPERED)	3	EA	$ 6,084.34	$ 18,253.02
261	S LONE TREE	37326	7310580	MAST ARM (35 FT.) (TAPERED)	2	EA	$ 6,842.55	$ 13,685.10
262	S LONE TREE	37328	7310602	MAST ARM (45 FT.) (TAPERED)	2	EA	$ 10,098.39	$ 20,196.78
263	S LONE TREE	37330	7320030	ELECTRICAL CONDUIT (2.5") (PVC)	20	LF	$ 55.12	$ 1,102.40
264	S LONE TREE	37332	7320050	ELECTRICAL CONDUIT (2") (PVC)	475	LF	$ 47.47	$ 22,548.25
265	S LONE TREE	37334	7320070	ELECTRICAL CONDUIT (3") (PVC)	385	LF	$ 52.37	$ 20,162.45
266	S LONE TREE	37336	7320073	ELECTRICAL CONDUIT (2 - 3") (PVC)	825	LF	$ 69.79	$ 57,576.75
267	S LONE TREE	37340	7320440	PULL BOX (NO. 5)	2	EA	$ 2,023.73	$ 4,047.46
268	S LONE TREE	37342	7320420	PULL BOX (NO. 7)	6	EA	$ 1,733.61	$ 10,401.66
269	S LONE TREE	37344	7320421	PULL BOX (NO. 7) (WITH EXTENSION)	3	EA	$ 2,144.49	$ 6,433.47
270	S LONE TREE	37346	7320651	CONDUCTORS (TRAFFIC SIGNALS)	2	LS	$ 31,957.12	$ 63,914.24
271	S LONE TREE	37348	7330061	TRAFFIC SIGNAL FACE (TYPE F) (MODIFIED LED)	19	EA	$ 1,032.52	$ 19,617.88
272	S LONE TREE	37349	7330062	TRAFFIC SIGNAL FACE (TYPE F) (MODIFIED LED) BIKE	6	EA	$ 1,152.46	$ 6,914.76
273	S LONE TREE	37350	7330070	TRAFFIC SIGNAL FACE (TYPE G) (MODIFIED LED)	8	EA	$ 1,390.76	$ 11,126.08
274	S LONE TREE	37352	7330211	PEDESTRIAN SIGNAL (MAN/HAND) (LED)	12	EA	$ 811.84	$ 9,742.08
275	S LONE TREE	37354	7330310	TRAFFIC SIGNAL MOUNTING ASSEMBLY (TYPE II)	17	EA	$ 464.63	$ 7,898.71
276	S LONE TREE	37356	7330340	TRAFFIC SIGNAL MOUNTING ASSEMBLY (TYPE V)	20	EA	$ 869.22	$ 17,384.40
277	S LONE TREE	37358	7330360	TRAFFIC SIGNAL MOUNTING ASSEMBLY (TYPE VII)	4	EA	$ 934.79	$ 3,739.16
278	S LONE TREE	37362	7340040	CONTROL CABINET (TYPE IV)	2	EA	$ 10,509.52	$ 21,019.04
279	S LONE TREE	37364	7340103	CONTROL CABINET FOUNDATION	2	EA	$ 6,613.50	$ 13,227.00
280	S LONE TREE	37366	7340251	CONTROLLER (MODEL 2070)	2	EA	$ 38,764.59	$ 77,529.18
281	S LONE TREE	37368	7350060	PEDESTRIAN PUSH BUTTON	21	EA	$ 837.59	$ 17,589.39
282	S LONE TREE	37370		RADAR DETECTION SYSTEM W/ ADVANCE	2	EA	$ 48,106.00	$ 96,212.00
283	S LONE TREE	37372	7350551	OPTICOM PRE-EMPTION UNIT	7	EA	$ 12,304.81	$ 86,133.67
284	S LONE TREE	37374	7360104	LUMINAIRE (HORIZONTAL MOUNT) (6,000 LUMEN) (LED)	8	EA	$ 2,354.23	$ 18,833.84
285	S LONE TREE	37376	7360240	LOAD CENTER CABINET FOUNDATION	2	EA	$ 5,756.92	$ 11,513.84
286	S LONE TREE	37378	7360243	LOAD CENTER CABINET (TYPE IV) (UPS / METER PEDESTAL COMBO)	2	EA	$ 19,610.00	$ 39,220.00
287	S LONE TREE	37380	9240055	MISCELLANEOUS WORK (REMOVE TRAFFIC SIGNAL - LONE TREE AND FRANKLIN)	1	LS	$ 30,469.70	$ 30,469.70
288	S LONE TREE	37382	9240057	MISCELLANEOUS WORK (TEMP SIGNAL - FRANK)	1	LS	$ 131,389.68	$ 131,389.68
289	S LONE TREE	37384		MISCELLANEOUS WORK (NON-AERODYNAMIC DAMPER SYSTEM)	4	EA	$ 5,500.00	$ 22,000.00
290	S LONE TREE	38000	8070100	IRRIGATION CONTROLLER	1	EA	$ 11,226.16	$ 11,226.16
291	S LONE TREE	38002	8070105	MASTER VALVE (1-1/2")	1	EA	$ 1,083.92	$ 1,083.92
292	S LONE TREE	38004	8070110	FLOW SENSOR (1-1/2")	1	EA	$ 4,598.10	$ 4,598.10
293	S LONE TREE	38006	8070115	BALL VALVE (1-1/2")	4	EA	$ 201.75	$ 807.00
294	S LONE TREE	38008	8070120	REMOTE CONTROL VALVE (1")	8	EA	$ 700.27	$ 5,602.16
295	S LONE TREE	38014	8070135	QUICK COUPLER VALVE (1")	5	EA	$ 462.36	$ 2,311.80
296	S LONE TREE	38016	8070140	VALVE BOXES FOR MASTER VALVE, FLOW SENSOR, BALL VALVE (CARSON 1419)	7	EA	$ 167.95	$ 1,175.65
297	S LONE TREE	38018	8070145	VALVE BOXES FOR ZONE VALVES (CARSON 1220)	8	EA	$ 340.74	$ 2,725.92
298	S LONE TREE	38020	8070150	VALVE BOXES FOR QUICK COUPLERS (CARSON 910)	5	EA	$ 112.97	$ 564.85
299	S LONE TREE	38022	8070155	VALVE BOXES FOR FLUSH END CAPS (CARSON 708)	200	EA	$ 40.18	$ 8,036.00
300	S LONE TREE	38024	8070160	LATERAL LINE FLUSH END CAPS	21	EA	$ 61.62	$ 1,294.02
301	S LONE TREE	38026	8070165	SCH 40 PVC PIPE (1-1/2") - MAINLINE	660	LF	$ 12.00	$ 7,920.00
302	S LONE TREE	38028	8070170	SCH 40 PVC PIPE (3/4") - LATERAL LINE	4,815	LF	$ 6.83	$ 32,886.45
303	S LONE TREE	38030	8070175	SCH 40 PVC PIPE (4") - SLEEVE	1,050	LF	$ 28.60	$ 30,030.00
304	S LONE TREE	38032		SCH 40 PVC PIPE (4") - SLEEVE, WIRING, HDPE PE 3408, SDR 11	150	LF	$ 58.89	$ 8,833.50
305	S LONE TREE	38034	8070185	EMITTER ASSEMBLY - MULTIPORT	170	EA	$ 33.39	$ 5,676.30
306	S LONE TREE	38036	8070190	RECLAIM WATER METER	1	LS	$ 45,821.15	$ 45,821.15
307	S LONE TREE	38038	8070191	WINTERIZING BLOW OUT STUB	1	LS	$ 358.21	$ 358.21
308	S LONE TREE	38200	2010001	CLEARING & GRUBBING	0.5	LS	$ 9,773.44	$ 4,886.72
309	S LONE TREE	38202	2010004	PRESERVATION FENCING	281	LF	$ 50.00	$ 14,050.00
310	S LONE TREE	38204	8020011	LANDSCAPE GRADING (RECESSED PLANTING AREAS)	388	SY	$ 10.00	$ 3,880.00
311	S LONE TREE	38206	8030040	GRANITE MULCH (SCREENED) (1/2")	1,412	SY	$ 18.50	$ 26,122.00
312	S LONE TREE	38208	8030074	DECORATIVE BOULDERS (2' X 2' X 1')	49	EA	$ 178.90	$ 8,766.10
313	S LONE TREE	38210	8030076	DECORATIVE BOULDERS (3' X 3' X 1.5')	14	EA	$ 243.59	$ 3,410.26
314	S LONE TREE	38212	8050003	SEEDING (CLASS II)	0.25	ACRE	$ 21,500.00	$ 5,375.00
315	S LONE TREE	38214	8061005	TREE (15 GALLON)	30	EA	$ 332.00	$ 9,960.00
316	S LONE TREE	38216	8061008	TREE (45 GALLON)	5	EA	$ 1,303.99	$ 6,519.95
317	S LONE TREE	38218		TREE (95 GALLON)	2	EA	$ 1,568.84	$ 3,137.68
318	S LONE TREE	38220	8061296	SHRUB (ONE GALLON)	126	EA	$ 21.53	$ 2,712.78
319	S LONE TREE	38222	8061298	SHRUB (FIVE GALLON)	154	EA	$ 46.11	$ 7,100.94
320	S LONE TREE	38224	8061700	LANDSCAPE PRUNING	12	HR	$ 110.93	$ 1,331.16
321	S LONE TREE	38239	9240184	MISCELLANEOUS WORK (LANDSCAPE MAINTENANCE)	12	MO	$ 1,706.40	$ 20,476.80
322	S LONE TREE	38240	9312000	DECORATIVE CONCRETE TREATMENT (HEAVY BROOM FINISH WITH INTEGRAL COLOR)	5,633	SF	$ 15.00	$ 84,495.00
323	S LONE TREE	38242	9312001	DECORATIVE CONCRETE TREATMENT (STAMPED WITH INTEGRAL COLOR)	330	SF	$ 15.00	$ 4,950.00
324	S LONE TREE	38244	9312002	DECORATIVE CONCRETE TREATMENT (SMOOTH FINISH WITH INTEGRAL COLOR)	1,060	SF	$ 15.00	$ 15,900.00

LINE	AREA	BID ITEM	CLIENT #	DESCRIPTION	QTY	UNIT	BID U/P	COST
325	S LONE TREE	38246		CINDERS 3/8"	788	SY	$ 3.40	$ 2,679.20
331	S LONE TREE	70100	9901010	MOBILIZATION	1	LS	$ 355,348.32	$ 355,348.32
							SUBTOTAL	**$ 9,204,232.59**
	S LONE TREE	70200	9901020	GENERAL CONDITIONS & SUPERVISION	1	LS	$ 1,919,385.19	**$ 1,919,385.19**
							LONE TREE SUBTOTAL	**$ 11,123,617.78**

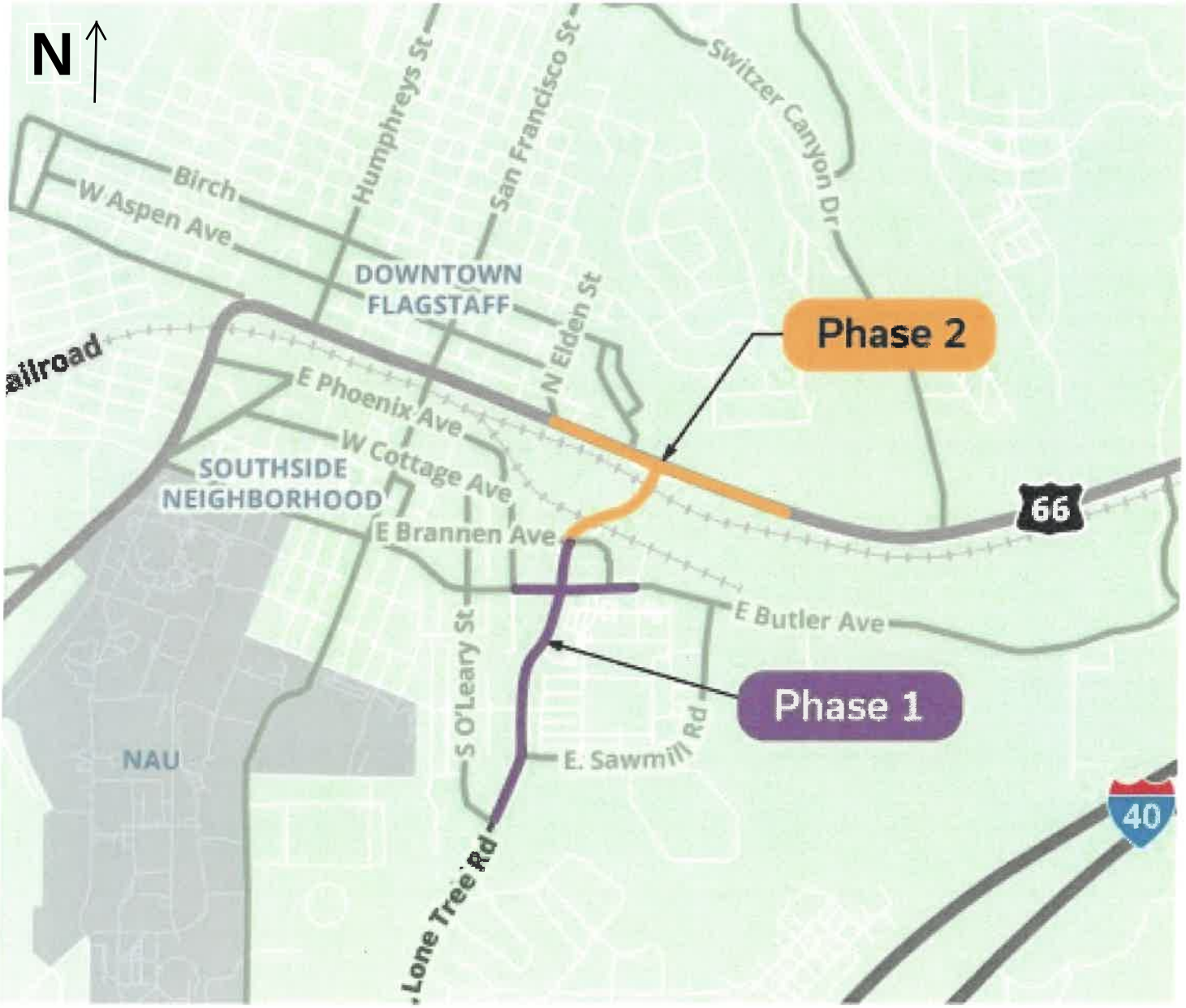
S LONE TREE SUMMARY				**COST**
COST OF WORK			**SUBTOTAL**	**$ 9,204,232.59**
GENERAL CONDITIONS	20.9%			$ 1,919,385.19
			SUBTOTAL	**$ 11,123,617.78**
OVERHEAD/PROFIT	12%			$ 1,334,834.13
			SUBTOTAL	**$ 12,458,451.91**
TAX (65% of 9.2%) GROSS REC TAX	5.64%			$ 702,977.37
			SUBTOTAL	**$ 13,161,429.28**
BOND (RATE = 0.525%)	0.525%			$ 69,097.50
GMP002 Cost			**SUBTOTAL**	**$ 13,230,526.79**
GMP002 - OWNER CONTINGENCY	5%			$ 661,526.34
GMP002 - GENERAL CONTRACTOR CONTINGENCY	2%			$ 264,610.54
TRAFFIC CONTROL ALLOWANCE				$ 487,409.23
SWPPP ALLOWANCE				$ 150,562.99
WSP POST DESIGN SERVICES - QUOTE DATE 1-12-24				$ 69,584.50
GMP002 LTS Cost				**$ 14,864,220.38**

GMP 2 COST SUMMARY	
BUTLER	**$ 10,824,380.77**
S LONE TREE	**$ 14,864,220.38**
GRAND TOTAL	**$ 25,688,601.15**

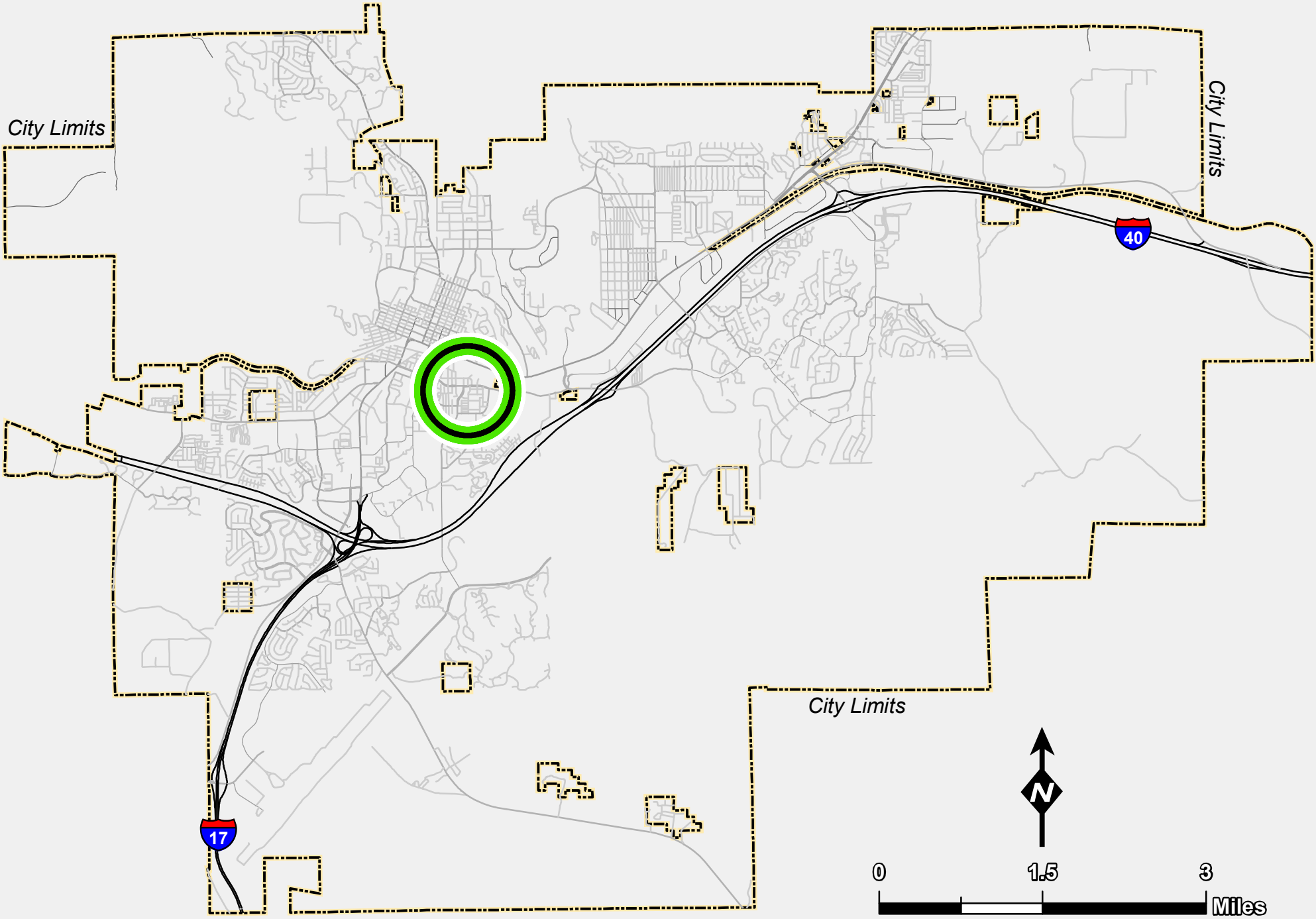
GENERAL CONDITIONS				
TIME RELATED OVERHEAD				
PROJECT MANAGER	20	MO	$ 24,999.38	$ 499,987.62
GENERAL SUPERINTENDENT	6	MO	$ 25,688.17	$ 154,129.02
EARTHWORK SUPERINTENDENT	20	MO	$ 23,759.05	$ 475,181.00
FIELD ENGINEER	20	MO	$ 20,819.14	$ 416,382.80
			SUPERVISION SUBTOTAL:	$ 1,545,680.44
SUBSISTENCE	18	MO	$ 21,758.78	$ 391,658.00
TRAVEL EXPENSES	18	MO	$ 515.00	$ 9,270.00
PROJECT TRAILER RENTAL	21	MO	$ 3,347.52	$ 70,298.00
FIELD OFFICE UTILITIES	21	MO	$ 1,854.00	$ 38,934.00
FIELD OFFICE FURNITURE	21	MO	$ 772.52	$ 16,223.00
FIELD OFFICE EQUIPMENT	21	MO	$ 721.00	$ 15,141.00
OUTSIDE OFFICE SERVICES	21	MO	$ 77.24	$ 1,622.00
FIELD OFFICE SUPPLIES	21	MO	$ 231.76	$ 4,867.00
DRINKING WATER & ICE	18	MO	$ 1,030.00	$ 18,540.00
FIELD OFFICE COPYING/REPRODUCTION	18	MO	$ 154.50	$ 2,781.00
SANITARY FACILITIES	18	MO	$ 824.00	$ 14,832.00
CONSTRUCTION DEBRIS DUMPSTERS	18	MO	$ 2,060.00	$ 37,080.00
JOBSITE EQUIPMENT	18	MO	$ 30,554.67	$ 549,984.00
PICKUP TRUCK ADJUSTMENTS	18	MO	$ (8,221.56)	$ (147,988.00)
PROJECT SECURITY	21.6	MO	$ 2,575.00	$ 55,620.00
SURVEYING	18	MO	$ 20,881.89	$ 375,874.00
			NON-SUPERVISION SUBTOTAL:	$ 1,454,736.00
			TIME RELATED OH SUBTOTAL:	**$ 3,000,416.44**
NON TIME RELATED OVERHEAD				
PERMITS	1	LS	$ 16,423.00	$ 16,423.00
CONSULTANTS	1	LS	$ 2,575.00	$ 2,575.00
QUALITY CONTROL SERVICES	1	LS	$ 220,000.00	$ 220,000.00
TEMPORARY YARD	1	LS	$ 33,475.00	$ 33,475.00
SMALL TOOLS	1	LS	$ 48,410.00	$ 48,410.00
EMPLOYEE ORIENTATION	20	EA	$ 619.75	$ 12,395.00
JOB SPECIFIC TRAINING	25	EA	$ 619.76	$ 15,494.00
SAFETY & FIRST AID SUPPLIES	1	LS	$ 18,154.00	$ 18,154.00
			NON TIME RELATED OH SUBTOTAL:	**$ 366,926.00**
			GENERAL CONDITIONS TOTAL	**$ 3,367,342.44**

Lone Tree Overpass and Corridor Improvements

Project Map



Lone Tree Overpass and Corridor Improvements



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sam Beckett, Public Works Streets Section Director

Co-Submitter: Scott Overton

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Contract: Purchase of two (2) 6-Wheel Snowplow Dump Trucks from RWC Group

STAFF RECOMMENDED ACTION:

1. Approve the equipment purchase for two (2) 2025 International HV507 SFA Heavy Duty plow trucks from RWC Group in the amount of $650,570.29 through cooperative purchase contract #CTR041813 with the Arizona Department of Administration, State procurement office and;
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Public Works - Streets Section is responsible for the timely snow plowing and added ice traction response on our City owned transportation network. Response to snow events is critical to maintain the safest travel possible on City streets. These trucks are replacements to existing Streets trucks that have far past met their sustainable life with the city. These 6-wheel trucks are also key in summer maintenance operations for dirt road repair, shoulder work, asphalt/pothole repair and general material hauling. In recent years these trucks have been critical to the success of our flood mitigation efforts and debris removal. The trucks have been recommended and approved by the Fleet Management Committee (FMC) and Budget Team for the requested action.

Financial Impact:

Project Name: Two (2) Streets 6-wheel Plow Trucks
Cost: $650,570.29
Account Number Budgeted: 040-06-161-0614-6-4401
FY Budgeted Amount: $695,000.00
Grant Funded: No
Funding Source: Highway User Revenue Funds (HURF)

Policy Impact:

Snow operations are a substantial element of the Streets work program. The City's Snow Operations Manual maps the entire community by zone. Equipment and operators are tasked with the plowing of snow for over 700 lane miles of City owned roadways. This operation can last a few days to over a week depending on the snow event or weather conditions. In addition to plowing, we use this equipment to apply traction assistance product. In summer months this truck is used in a dump truck capacity for hauling operations. This equipment directly supports City policy to provide snow plowing for City owned roadways along with summer maintenance operations.

Previous Council Decision or Community Discussion:

No

Options and Alternatives to Recommended Action:
1) Approve purchase of two (2) 6-Wheel Snowplow Dump Trucks from RWC Group
2) Decline purchase of two (2) 6-Wheel Snowplow Dump Trucks from RWC Group and recommend City staff procure needed equipment through a different procurement method

Background and History:
The Purchasing section has reviewed the competitively solicited cooperative purchase options available and confirmed that the Arizona Department of Transportation (ADOT) conducted a competitive and open procurement process through Request for Proposal Solicitation No. BPM005536 that resulted in Contract No. CTR041813 with RWC International LTD. This contract has been verified as valid and appropriate for the purchase of the specified vehicles and presents the best value to the City.

Connection to PBB Priorities and Objectives:
Provide, manage, and maintain effective infrastructure for multimodal and active transportation

Connection to Regional Plan:
N/A

Connection to Carbon Neutrality Plan:
These trucks align with the City's goal to produce less carbon emissions while still providing the highest levels of service to our community. These new trucks have advance emissions systems as well as a diesel exhaust particulate filter designed to significantly reduce carbon out put.

Connection to 10-Year Housing Plan:
N/A

Connection to Division Specific Plan:
This equipment purchase will assist Public Works - Streets Section in fullfilling the snow operations specified in the division's City's Snow Operations Manual.

Attachments: Full Cooperative contract 2025-37

COOPERATIVE PURCHASE CONTRACT
Contract No. 2025-37

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 2024 by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and RWC Group, an Arizona Corporation, DBA RWC International, an Arizona corporation ("Contractor").

RECITALS:

A. Contractor is a fully authorized vendor of medium and heavy-duty cabs, chassis and busses.

B. The State of Arizona, Arizona Department of Transportation conducted a competitive and open procurement process through Request for Proposal Solicitation No. BPM005536 that resulted in Contract No. CTR069476 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 the City the materials and or services, as specified in the Sales Proposal attached as *Exhibit A*, and in accordance with the Agency Contract. A general description of materials and/or services being purchased is:

Two (2) 2025 HV507 SFA (HV507) 6-Wheel Trucks

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in *Exhibit A* and incorporated by reference.

3. Payment: Payment to Contractor for the materials and or services provided for will be in the amount **six hundred fifty thousand five hundred seventy dollars and twenty-nine cents ($650,570.29)**; 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 attached as *Exhibit B*, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract, including, specifically changes in price for materials and/or services.

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

To the City:
Samuel Beckett
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
Samuel.Beckett@flagstaffaz.gov
Phone: (928) 213-2105

To Contractor:
RWC Group
Mary R. Wilson
600 North 75th Avenue
Phoenix, AZ 85043
mwilson@rwcgroup.com
(602) 307-1050

With a copy to:
Emily Markel
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
EMarkel@flagstaffaz.gov
Phone: (928) 213-2276

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

RWC GROUP

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

Notice to Proceed issued:_____, 20___

Last Updated October 30, 2023

EXHIBIT A
SCOPE OF WORK
(attached)

1. Quote for (2) 2025 HV507 SFA Trucks - 11 pages

HV507 SFA

Sales Proposal For:

CITY OF FLAGSTAFF

Presented By:

RWC Group

Prepared For:
CITY OF FLAGSTAFF
Mike Stress
211 WEST ASPEN AVE.
FLAGSTAFF, AZ 86001-
(928)779 - 7619
Reference ID: revised

Presented By:
RWC Group
Mary R Wilson
600 North 75th Avenue
PHOENIX AZ 85043 -
(602)307-1050

Thank you for the opportunity to provide you with the following quotation on a new International truck. I am sure the following detailed specification will meet your operational requirements, and I look forward to serving your business needs.

Model Profile
2025 HV507 SFA (HV507)

AXLE CONFIG:	4X2
APPLICATION:	Front Plow with spreader
MISSION:	Requested GVWR: 50000. Calc. GVWR: 44020. Calc. GCWR: 80000 Calc. Start / Grade Ability: 24.60% / 3.11% @ 55 MPH Calc. Geared Speed: 70.0 MPH
DIMENSION:	Wheelbase: 177.00, CA: 102.00, Axle to Frame: 75.00
ENGINE, DIESEL:	{Cummins L9 370} EPA 2024, 370HP @ 2100 RPM, 1250 lb-ft Torque @ 1200 RPM, 2100 RPM Governed Speed, 370 Peak HP (Max)
TRANSMISSION, AUTOMATIC:	{Allison 3000 RDS} 6th Generation Controls, Close Ratio, 6-Speed with Double Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway
CLUTCH:	Omit Item (Clutch & Control)
AXLE, FRONT NON-DRIVING:	{Meritor MFS-20-133A} Wide Track, I-Beam Type, 20,000-lb Capacity
AXLE, REAR, SINGLE:	{Meritor RS-26-185} Single Reduction, 26,000-lb Capacity, Driver Controlled Locking Differential, R Wheel Ends Gear Ratio: 5.63
CAB:	Conventional, Day Cab
TIRE, FRONT:	(2) 425/65R22.5 Load Range L HAC 3 (CONTINENTAL), 465 rev/mile, 68 MPH, All-Position
TIRE, REAR:	(4) 11R22.5 Load Range H HDC 3 (CONTINENTAL), 492 rev/mile, 68 MPH, Drive
SUSPENSION, REAR, SINGLE:	31,000-lb Capacity, Vari-Rate Springs, with 4500-lb Capacity Auxiliary Rubber Springs
FRAME REINFORCEMENT:	Full Outer C-Channel, Heat Treated Alloy Steel (120,000 PSI Yield), 10.813" x 3.892" x 0.312" (274.6mm x 98.8mm x 7.9mm), 480.0" (12192mm) OAL
PAINT:	Cab schematic 100WK Location 1: 9219, Winter White (Std) Chassis schematic N/A

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
HV50700	Base Chassis, Model HV507 SFA with 177.00 Wheelbase, 102.00 CA, and 75.00 Axle to Frame.	5957/3683	9640
AXLE CONFIGURATION			
1ANA	AXLE CONFIGURATION {Navistar} 4x2 Notes : Pricing may change if axle configuration is changed.	56/-115	-59
ENGINE			
12EZA	ENGINE, DIESEL {Cummins L9 370} EPA 2024, 370HP @ 2100 RPM, 1250 lb-ft Torque @ 1200 RPM, 2100 RPM Governed Speed, 370 Peak HP (Max)	559/5	564
12VJS	EMISSION, CALENDAR YEAR {Cummins L9} EPA, OBD and GHG Certified for Calendar Year 2024	0/0	0
12XCS	CARB EMISSION WARR COMPLIANCE Does Not Comply with CARB Emission Warranty	0/0	0
12WZE	CARB IDLE COMPLIANCE Does Not Comply with California Clean Air Idle Regulations	0/0	0
12WVG	EPA IDLE COMPLIANCE Low NOx Idle Engine, Complies with EPA Clean Air Regulations; Includes "Certified Clean Idle" Decal on Hood	0/0	0
12UWZ	RADIATOR Aluminum, Cross Flow, Front to Back System, 1228 SqIn, with 1167 SqIn Charge Air Cooler, Includes In-Tank Oil Cooler Includes : DEAERATION SYSTEM with Surge Tank : HOSE CLAMPS, RADIATOR HOSES Gates Shrink Band Type; Thermoplastic Coolant Hose Clamps : RADIATOR HOSES Premium, Rubber	23/-5	18
12THT	FAN DRIVE {Horton Drivemaster} Two-Speed Type, Direct Drive, with Residual Torque Device for Disengaged Fan Speed Includes : FAN Nylon	0/0	0
12VAL	AIR CLEANER Dual Element, with Integral Snow Valve and In-Cab Control	6/0	6
12703	ANTI-FREEZE Red, Extended Life Coolant; To -40 Degrees F/ -40 Degrees C, Freeze Protection	0/0	0
12WUL	BLOCK HEATER, ENGINE {Phillips} 120V/1000W, with "Y" Cord for Dealer Installed 120V/300W Oil Pan Heater Includes : BLOCK HEATER SOCKET Receptacle Type; Mounted below Drivers Door	3/0	3
12XBM	ENGINE CONTROL, REMOTE MOUNTED Provision for; Includes Wiring for Body Builder Installation of PTO Controls and Starter Lockout, with Ignition Switch Control, for Cummins B6.7 and L9 Engines	0/0	0
12VXT	THROTTLE, HAND CONTROL Engine Speed Control; Electronic, Stationary, Variable Speed; Mounted on Steering Wheel	0/0	0
TRANSMISSION			
13BCS	TRANSMISSION, AUTOMATIC {Allison 3000 RDS} 6th Generation Controls, Close Ratio, 6-Speed with Double Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway	206/77	283
13WUC	ALLISON SPARE INPUT/OUTPUT for Rugged Duty Series (RDS) and Regional Haul Series (RHS), General Purpose Trucks, Construction, Package Number 223	0/0	0
13WVV	NEUTRAL AT STOP Allison Transmission Shifts to Neutral When Service Brake is Depressed and Vehicle is at Stop; Remains in Neutral Until Service Brake is Released	0/0	0
13XAL	PTO LOCATION Customer Intends to Install PTO at Left Side of Transmission	0/0	0

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
13WDZ	SHIFT CONTROL PARAMETERS {Allison} 3000 or 4000 Series Transmissions, S1 Performance in Primary and Fixed Programming in Secondary	0/0	0
13WLP	TRANSMISSION OIL Synthetic; 29 thru 42 Pints	0/0	0
13WET	TRANSMISSION SHIFT CONTROL Column Mounted Stalk Shifter, Not for Use with Allison 1000 & 2000 Series Transmission	1/0	1
CLUTCH			
11001	CLUTCH Omit Item (Clutch & Control)	0/0	0
REAR AXLES, SUSPENSIONS			
14ASA	AXLE, REAR, SINGLE {Meritor RS-26-185} Single Reduction, 26,000-lb Capacity, Driver Controlled Locking Differential, R Wheel Ends . Gear Ratio: 5.63 Notes : Axle Lead Time is 60 Days	0/290	290
14VAJ	SUSPENSION, REAR, SINGLE 31,000-lb Capacity, Vari-Rate Springs, with 4500-lb Capacity Auxiliary Rubber Springs	0/142	142
FRONT AXLES			
2ARY	AXLE, FRONT NON-DRIVING {Meritor MFS-20-133A} Wide Track, I-Beam Type, 20,000-lb Capacity	186/0	186
FRONT SUSPENSIONS			
3AGA	SUSPENSION, FRONT, SPRING Parabolic Taper Leaf, Shackle Type, 20,000-lb Capacity, with Shock Absorbers	58/0	58
3770	SPRINGS, FRONT AUXILIARY Rubber	10/0	10
CABS, COWLS, BODIES			
16030	CAB Conventional, Day Cab	0/0	0
16ZBT	ACCESS, CAB Steel, Driver & Passenger Sides, Two Steps per Door, for use with Day Cab and Extended Cab	0/0	0
16BAM	AIR CONDITIONER with Integral Heater and Defroster	0/0	0
16VKB	CAB INTERIOR TRIM Classic, for Day Cab Includes : CONSOLE, OVERHEAD Molded Plastic with Dual Storage Pockets, Retainer Nets and CB Radio Pocket; Located Above Driver and Passenger : DOME LIGHT, CAB Door Activated and Push On-Off at Light Lens, Timed Theater Dimming, Integral to Overhead Console, Center Mounted : SUN VISOR (2) Padded Vinyl; 2 Moveable (Front-to-Side) Primary Visors, Driver Side with Toll Ticket Strap	0/0	0
16WSK	CAB REAR SUSPENSION Air Bag Type	0/0	0
16GED	GAUGE CLUSTER Base Level; English with English Electronic Speedometer Includes : GAUGE CLUSTER DISPLAY: Base Level (3" Monochromatic Display), Premium Level (5" LCD Color Display); Odometer, Voltmeter, Diagnostic Messages, Gear Indicator, Trip Odometer, Total Engine Hours, Trip Hours, MPG, Distance to Empty/ Refill for : GAUGE CLUSTER Speedometer, Tachometer, Engine Coolant Temp, Fuel Gauge, DEF Gauge, Oil Pressure Gauge, Primary and Secondary Air Pressure : WARNING SYSTEM Low Fuel, Low DEF, Low Oil Pressure, High Engine Coolant Temp, Low Battery Voltage (Visual and Audible), Low Air Pressure (Primary and Secondary)	0/0	0

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
16HHE	GAUGE, AIR CLEANER RESTRICTION {Filter-Minder} Mounted in Instrument Panel	2/0	2
16SEE	GRAB HANDLE, EXTERIOR Chrome, Towel Bar Type, with Anti-Slip Rubber Inserts, for Cab Entry Mounted Left Side at B-Pillar	3/0	3
16XJP	INSTRUMENT PANEL Wing Panel	0/0	0
16HKT	IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster	0/0	0
16SNP	MIRRORS (2) C-Loop, Power Adjust, Heated, Black Heads and Arms, 7.5" x 14" Flat Glass, Includes 7.5" x 7" Convex Mirrors, for 102" Load Width Notes : Mirror Dimensions are Rounded to the Nearest 0.5"	0/0	0
16SNW	MIRROR, CONVEX, LOOK DOWN Right Side, Black, 6" x 10.5"	3/0	3
16SJW	MIRROR, CONVEX, HOOD MOUNTED {Lang Mekra} (2) Right and Left Sides, Black, Heated, 7.5" Sq.	9/0	9
16VLV	MONITOR, TIRE PRESSURE Omit	-9/-2	-11
16VCC	SEAT BELT All Orange; 1 to 3	0/0	0
16JPY	SEAT, DRIVER {National 2000} Air Suspension, Hi Back, Cloth Facing/Vinyl Boxing, 1 Inboard Arm Rest, Isolator, Adjuster, 3 Chamber Lumbar, 6 Way Front Adj, 3 Way Rear Cushion Adj, -3 to 14 Degree Back Angle Adjustment, Adjust Side Bolster, Vinyl Suspension Cover, Heat	0/0	0
16SMM	SEAT, PASSENGER {National} Non Suspension, High Back, Fixed Back, Integral Headrest, Cloth	14/9	23
16WJU	WINDOW, POWER (2) and Power Door Locks, Left and Right Doors, Includes Express Down Feature	0/0	0
16XWJ	WINDSHIELD WIPER BLADES Winter Type	2/0	2
FRAMES			
1CBU	FRAME RAILS Heat Treated Alloy Steel (120,000 PSI Yield); 10.125" x 3.580" x 0.312" (257.2mm x 90.9mm x 8.0mm); 480.0" (12192) Maximum OAL	-28/176	148
1GBP	FRAME REINFORCEMENT Full Outer C-Channel, Heat Treated Alloy Steel (120,000 PSI Yield), 10.813" x 3.892" x 0.312" (274.6mm x 98.8mm x 7.9mm), 480.0" (12192mm) OAL	337/561	898
1LZD	BUMPER, FRONT Swept Back, Aluminum, Stainless Steel Clad, Heavy Duty	-47/7	-40
1MEJ	FRAME DIMPLE Dimple on Left and Right Top Flange of Frame Rail to Reference Rear Axle Centerline	0/0	0
1WDT	FRAME EXTENSION, FRONT Integral; 20" In Front of Grille, with Outer C-Channel Reinforcement	164/-18	146
1570	TOW HOOK, FRONT (2) Frame Mounted	8/0	8
1572	TOW HOOK, REAR (2)	0/10	10
1WEV	WHEELBASE RANGE 146" (370cm) Through and Including 195" (495cm)	217/-217	0
BRAKES			
4091	BRAKE SYSTEM, AIR Dual System for Straight Truck Applications Includes : BRAKE LINES Color and Size Coded Nylon : DRAIN VALVE Twist-Type : GAUGE, AIR PRESSURE (2) Air 1 and Air 2 Gauges; Located in Instrument Cluster : PARKING BRAKE CONTROL Yellow Knob, Located on Instrument Panel : PARKING BRAKE VALVE For Truck : QUICK RELEASE VALVE On Rear Axle for Spring Brake Release: 1 for 4x2, 2 for 6x4 : SPRING BRAKE MODULATOR VALVE R-7 for 4x2, SR-7 with relay valve for 6x4/8x6	0/0	0

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
4AZJ	AIR BRAKE ABS {Bendix AntiLock Brake System} 4-Channel (4 Sensor/4 Modulator) Full Vehicle Wheel Control System, with Automatic Traction Control	0/0	0
4GBM	BRAKE, PARKING Manual Push-Pull Pneumatic Parking Brake	1/0	1
4XDT	BRAKES, FRONT {Meritor 16.5X6 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 6", 23,000-lb Capacity	33/0	33
4EXV	BRAKE CHAMBERS, FRONT AXLE {Bendix} 24 SqIn	4/0	4
4LAG	SLACK ADJUSTERS, FRONT {Gunite} Automatic	14/0	14
4WBX	DUST SHIELDS, FRONT BRAKE for Air Cam Brakes	10/0	10
4XCZ	BRAKES, REAR {Meritor 16.5X7 P} Air S-Cam Type, Cast Spider, Cast Shoe, Double Anchor Pin, Includes Greaseable and Zinc Coated Anchor Pins, Size 16.5" X 7", 38,000-lb Capacity per Axle	0/106	106
4EXU	BRAKE CHAMBERS, REAR AXLE {Bendix EverSure} 30/30 SqIn Spring Brake	0/7	7
4LGG	SLACK ADJUSTERS, REAR {Gunite} Automatic	0/14	14
4WDM	DUST SHIELDS, REAR BRAKE for Air Cam Brakes	0/10	10
4SPA	AIR COMPRESSOR {Cummins} 18.7 CFM	0/0	0
4EBD	AIR DRYER {Wabco System Saver 1200} with Heater	7/4	11
4VKC	AIR DRYER LOCATION Mounted Inside Left Rail, Back of Cab	13/8	21
4WZJ	AIR TANK LOCATION (2) : One Mounted Under Each Rail, Front of Rear Suspension, Parallel to Rail	-32/51	19
4WDA	DRAIN VALVE (3) Petcocks, for Air Tanks	0/0	0
4619	TRAILER CONNECTIONS Four-Wheel, with Hand Control Valve and Tractor Protection Valve, for Straight Truck Notes : When electronic stability control is ordered with trailer connections on a 4x2 truck, please check the operator manual for trailer weight restrictions.	2/0	2
STEERING			
5PTB	STEERING GEAR (2) {Sheppard M100/M80} Dual Power	101/-5	96
5708	STEERING COLUMN Tilting	13/2	15
5CAW	STEERING WHEEL 4-Spoke; 18" Dia., Black	0/0	0
DRIVELINES			
6DGC	DRIVELINE SYSTEM {Dana Spicer} SPL170, for 4x2/6x2	8/30	38
EXHAUST SYSTEMS			
7BLW	EXHAUST SYSTEM Horizontal Aftertreatment System, Frame Mounted Right Side Under Cab, for Single Vertical Tail Pipe, Frame Mounted Right Side Back of Cab	126/50	176
7BEV	AFTERTREATMENT COVER Steel, Black	10/3	13
7SDP	ENGINE COMPRESSION BRAKE {Jacobs} for Cummins ISL/L9 Engines; with Selector Switch and On/Off Switch	40/8	48
7WCR	EXHAUST HEIGHT 10' 11"	16/14	30
7WDN	MUFFLER/TAIL PIPE GUARD (1) Aluminum	9/7	16
7WDT	TAIL PIPE (1) Straight Type	5/4	9
ELECTRICAL SYSTEMS			
8000	ELECTRICAL SYSTEM 12-Volt, Standard Equipment Includes : DATA LINK CONNECTOR For Vehicle Programming and Diagnostics In Cab : HAZARD SWITCH Push On/Push Off, Located on Instrument Panel to Right of Steering Wheel : HEADLIGHT DIMMER SWITCH Integral with Turn Signal Lever : PARKING LIGHT Integral with Front Turn Signal and Rear Tail Light : STARTER SWITCH Electric, Key Operated	0/0	0

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
	: STOP, TURN, TAIL & B/U LIGHTS Dual, Rear, Combination with Reflector : TURN SIGNAL SWITCH Self-Cancelling for Trucks, Manual Cancelling for Tractors, with Lane Change Feature : WINDSHIELD WIPER SWITCH 2-Speed with Wash and Intermittent Feature (5 Pre-Set Delays), Integral with Turn Signal Lever : WINDSHIELD WIPERS Single Motor, Electric, Cowl Mounted : WIRING, CHASSIS Color Coded and Continuously Numbered		
12VYL	ACCESSORY WIRING, SPECIAL for Road Speed Wire Coiled Under Instrument Panel for Customer Use	0/0	0
8GXJ	ALTERNATOR {Leece-Neville AVI160P2013} Brush Type, 12 Volt, 160 Amp Capacity, Pad Mount	0/0	0
8RPP	ANTENNA Shark Fin, Roof Mounted	1/0	1
8THJ	AUXILIARY HARNESS 3.0' for Auxiliary Front Head Lights and Turn Signals for Front Plow Applications	2/0	2
8THB	BACK-UP ALARM Electric, 102 dBA	0/3	3
8VUL	BATTERY BOX Steel, with Plastic Cover, 18" Wide, 2-4 Battery Capacity, Mounted Left Side Back of Cab	-34/11	-23
8XHD	BATTERY DISCONNECT SWITCH 300 Amp, Disconnects Charging Circuits, Locks with Padlock, Cab Mounted	2/0	2
8MJU	BATTERY SYSTEM {Fleetrite} Maintenance-Free, (3) 12-Volt 2850CCA Total, Top Threaded Stud	34/41	75
8HAE	BODY BUILDER WIRING Rear of Frame; Includes Sealed Connectors for Tail/ Amber Turn/Marker/ Backup/Accessory Power/Ground and Sealed Connector for Stop/Turn	0/3	3
8RNC	CB RADIO Accommodation Package, Header Mounted, Feeds from Accessory Side of Ignition Switch, Includes Power Source, Two Antennas and Antenna Bases with Wiring on Both Side Mirrors	34/5	39
8RGA	2-WAY RADIO Wiring Effects; Wiring with 20 Amp Fuse Protection, Includes Ignition Wire with 5 Amp Fuse, Wire Ends Heat Shrink and Routed to Center of Header Console in Cab	2/0	2
8XAH	CIRCUIT BREAKERS Manual-Reset (Main Panel) SAE Type III with Trip Indicators, Replaces All Fuses	0/0	0
8WPH	CLEARANCE/MARKER LIGHTS (5) {Truck Lite} Amber LED Lights, Flush Mounted on Cab or Sunshade	0/0	0
8HAH	ELECTRIC TRAILER BRAKE/LIGHTS Accommodation Package to Rear of Frame; for Combined Trailer Stop, Tail, Turn, Marker Light Circuits; Includes Electric Trailer Brake Accommodation Package with Cab Connections for Mounting Customer Installed Electric Brake Unit, Less Trailer Socket	0/2	2
8WXB	HEADLIGHT WARNING BUZZER Sounds When Head Light Switch is on and Ignition Switch is in "Off" Position	0/0	0
8XNY	HEADLIGHTS Halogen	0/0	0
8WRB	HEADLIGHTS ON W/WIPERS Headlights Will Automatically Turn On if Windshield Wipers are Turned On	0/0	0
8HXT	HORN, AIR (2) Single Tone, Chrome, Roof Mounted, with Lanyard Pull Cord	0/0	0
8VAY	HORN, ELECTRIC Disc Style	0/0	0
8WWJ	INDICATOR, LOW COOLANT LEVEL with Audible Alarm	0/0	0
8WBW	JUMP START STUD 12V, Remote Mounted	2/0	2
8RPS	RADIO AM/FM/WB/Clock/Bluetooth/USB Input/Auxiliary Input	3/0	3
8695	SNOW SHIELD (2) Chrome; for Dual Air Horns	2/0	2
8RMV	SPEAKERS (2) 6.5" Dual Cone Mounted in Doors	5/0	5
8WTL	STARTING MOTOR {Delco Remy 39MT} 12 Volt, Gear Reduced, with Thermal Over-Crank Protection	12/1	13
8WPZ	TEST EXTERIOR LIGHTS Pre-Trip Inspection will Cycle all Exterior Lamps Except Back-up Lights	0/0	0
8TKK	TRAILER AUXILIARY FEED CIRCUIT for Electric Trailer Brake Accommodation/ Air Trailer ABS; with 30 Amp Fuse and Relay, Controlled by Ignition Switch	1/0	1

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
8VZK	TURN SIGNALS, FRONT Dual Face, LED, Amber/Red, Mounted on Top of Fender, Used with Standard Flush Mounted Front Turn Signal, Side Marker Lamps, Parking Lights and Reflectors	0/0	0
8WGL	WINDSHIELD WIPER SPD CONTROL Force Wipers to Slowest Intermittent Speed When Park Brake Set and Wipers Left on for a Predetermined Time	0/0	0
FRONT END			
9WBC	FRONT END Tilting, Fiberglass, with Three Piece Construction, for WorkStar/HV	0/0	0
9WAC	BUG SCREEN Mounted Behind Grille	5/0	5
9585	FENDER EXTENSIONS Rubber	6/0	6
9HBM	GRILLE Stationary, Chrome	0/0	0
9ANG	HOOD, HATCH (01) for Servicing	5/0	5
9HBN	INSULATION, SPLASH PANELS for Sound Abatement	2/0	2
9AAB	LOGOS EXTERIOR Model Badges	0/0	0
9AAE	LOGOS EXTERIOR, ENGINE Badges	0/0	0
SPEEDOMETER, TOOLS, MISC			
10022	CHASSIS COATING Corrosion Resistant E-Coat Primer Coating for Reinforced Frame Rails	0/0	0
10AGB	COMMUNICATIONS MODULE Telematics Device with Over the Air Programming; Includes Five Year Data Plan and International 360	1/0	1
10060	PAINT SCHEMATIC, PT-1 Single Color, Design 100 Includes : PAINT SCHEMATIC ID LETTERS "WK"	0/0	0
10761	PAINT TYPE Base Coat/Clear Coat, 1-2 Tone	0/0	0
10SLV	PROMOTIONAL PACKAGE Government Silver Package	0/0	0
10WCY	SAFETY TRIANGLES	6/0	6
FUEL TANKS			
15SJZ	FUEL TANK Top Draw, Non-Polished Aluminum, 26" Dia, 80 US Gal (303L), Mounted Left Side, Under Cab	14/10	24
15DYP	DEF TANK 9.5 US Gal (36L) Capacity, Frame Mounted Outside Left Rail, Under Cab	13/4	17
15WCS	FUEL COOLER Less Thermostat; Mounted in Front of Cooling Module	14/0	14
15LNG	FUEL/WATER SEPARATOR {Davco 245} 12 VDC Electric Heater, Includes Pre-Heater, Includes Water-in-Fuel Sensor	3/1	4
15LLZ	LOCATION FUEL/WATER SEPARATOR Mounted Outside Left Rail, 41" Back of Cab	-3/3	0
WHEELS, TIRES - FRONT			
27DUN	WHEELS, FRONT {Accuride 29807} DISC; 22.5x12.25 Rims, Powder Coat Steel, 5-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with Steel Hubs, Offset 5.37"	94/0	94
7752665441	(2) TIRE, FRONT 425/65R22.5 Load Range L HAC 3 (CONTINENTAL), 465 rev/mile, 68 MPH, All-Position	112/0	112
WHEELS, TIRES - REAR			
28DTT	WHEELS, REAR {Accuride 28828} DUAL DISC; 22.5x8.25 Rims, Powder Coat Steel, 2-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with .472" Thick Increased Capacity Disc and with Steel Hubs	0/28	28
7382135440	(4) TIRE, REAR 11R22.5 Load Range H HDC 3 (CONTINENTAL), 492 rev/mile, 68 MPH, Drive	0/56	56

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
BODY INTEGRATION			
60AAT	BDY INTG, ADDITIONAL CAB HOLE for Customer Use	0/0	0
60AKZ	BDY INTG, DASH IND LT TRICOLOR (2) for Optional Usage Customer to Program	0/0	0
60AKG	BDY INTG, PTO ACCOMMODATION for (3) Latched Rocker Switches, (1) PTO Switch, (2) Generic Switches to Control (3) 30 amp relays, with Programmable Interlocks, for Body Builder Hook up in the Engine Compartment Left Side, Recommended for Automatic Transmissions Cab schematic 100WK Location 1: 9219, Winter White (Std) Chassis schematic N/A	0/0	0
	Services Section:		
WARRANTY			
40128	WARRANTY Standard for HV507, HV50B, HV607 Models, Effective with Vehicles Built July 1, 2017 or Later, CTS-2025A	0/0	0
	Total Component Weight:	**8458/5084** (lbs)	**13542** (lbs)

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
1	New Crysteel Select Dump Body 84"CA Min. 10' LONG X 87" W ID X 96" W OD 8" TALL WESTERN LONGSILLS WITH 5/8" RUBBER WEAR PADS BETWEEN FRAME FRONT WALL IS 58" TALL , 10GA A1011 STEEL , WITH STD 1/2 CAB SHIELD VERTICAL DOGHOUSE HOIST (does not protrude more then 12" into body) TAPERED SIDES 54" - 46" TALL, 7GA A1011 STEEL FLOOR IS 3/16" AR-400 ABRASION RESISTANT STEEL TAILGATE IS 46" TALL, 7-GA A1011 STEEL, STD SWING WITH AIR OP GATE LOCK 10" SPREAD APRON WITH CHAINS STEPS AND GRAB HANDLE AT DRIVERS SIDE REAR POST HD REAR MUDFLAPS BEHIND DRIVE AXLE LED LIGHTS TO DOT REQUIREMENTS, INCLUDES BODY UP LIGHT INSTALLED COMPLETE PAINTED CUST COLOR HOT SHIFT PTO AND DIRECT MOUNT HYD PUMP FOR ALLISON TRANSMISSION BODY, PLOW & SANDER CONTROL SYSTEM IS FORCE AMERICA 6100 ULTRA CONTROL HENKE 12'X42" MOLDBOARD TRIP, REVERSABLE PLOW (7) MOLDBOARD TO PUSH-FRAME CONNECTION POINTS WITH BUSHINGS 12" RUBBER SNOW DEFLECTOR, AND CURB GUARD INCLUDED PLOW LIGHTS AND BRACKETS INSTALLED AS APPLICABLE (Truck must have plow light switch) INCLUDES FRONT FOG LIGHTS MONROE 9' STAINLESS STEEL V-BOX SANDER ON SKID ASSEMBLY HEATED (OPTIONAL) 10GA HOPPER, 62" HIGH SIDES, INCLUDES TOP GRATE KITS 10GA TIP UP SPINNER ASSEMBLY SS FOLD UP LADDER IN REAR SS LIGHT BAR AT REAR OF SANDER, INCLUDES STROBE LIGHTS AND WORK LIGHTS INCLUDES SELF LOADING LEG KITS, AND RATCHET / BINDER TIE DOWNS STROBE LED LIGHTS MOUNTED ON CAB GUARD OF DUMP BODY STROBE LED LIGHTS MOUNTED IN REAR POST OF DUMP BODY EACH SIDE ELECTRIC TARP SYSTEM WITH ALUM TARP ARMS AND HD MESH TARP INSTALLED HD REAR HITCH PLATE WITH REMOVABLE, SWIVEL PINTLE HITCH, & BUILT IN CHIP BAR INCLUDES D-RINGS GLAD HANDS AND 7-WAY LIGHT SOCKET.	0/0	0
2	Add Centralized Remote Air Drain-Drivers side manifold orange	0/0	0
	Total Body Allied:	**0/0** (lbs)	**0** (lbs)
Central Dispatch	FLAGSTAFF DELIVERY FEE	0/0	0
	Total Goods Purchased:	**0/0**	**0**

The weight calculations included in this proposal are an estimate of future vehicle weight. The actual weight as manufactured may be different from the estimated weight. Navistar, Inc. shall not be liable for any consequences resulting from any differences between the estimated weight of a vehicle and the actual weight.

(US DOLLAR)

Description		Price
Total Factory List Price Including Options:		$169,625.00
Total Goods Purchased:		$700.00
Freight Charge	$3,100.00	
Total Freight:		$3,100.00
Total Factory List Price Including Freight:		$173,425.00
Less Customer Allowance:		($53,708.30)
Total Vehicle Price:		$119,716.70
Total Body/Allied Equipment:		$186,848.00
Total Sale Price:		$306,564.70
Total Per Vehicle Sales Price:		$306,564.70
Total For 2 Vehicle Sales:		$613,129.40
Total Net Sales Excluding Taxes:		$613,129.40
Arizona Tire Tax, 10 Tires	$40.00	
Sales Tax, Pima County	$37,400.89	
Total Taxes:		$37,440.89
Net Sales Price:		$650,570.29

Maricopa County Contract 2023-2024

If applicable, Federal Excise Tax (FET) is included in the net sales price above.

Terms of payment are cash on delivery and prices quoted are FOB Phoenix, AZ (unless otherwise noted).

This quote is good for 30 days. All inventory units are subject to prior sale. Unless otherwise noted, the quote above does NOT include title and licensing charges or Arizona state sales tax.

Please feel free to contact me regarding these specifications should your interests or needs change. I am confident you will be pleased with the quality and service of an International vehicle.

Approved by Seller:

Official Title and Date

Authorized Signature

Accepted by Purchaser:

Firm or Business Name

Authorized Signature and Date

This proposal is not binding upon the seller without Seller's Authorized Signature

Official Title and Date

The TOPS FET calculation is an estimate for reference purposes only. The seller or retailer is responsible for calculating and reporting/paying appropriate FET to the IRS.

The limited warranties applicable to the vehicles described herein are Navistar, Inc.'s standard printed warranties which are incorporated herein by reference and to which you have been provided a copy and hereby agree to their terms and conditions.

EXHIBIT B
AGENCY CONTRACT
(attached)

1. ADOT Contract # CTR069476 (77 pages)
2. Contract price sheet (1 page)

DocuSign Envelope ID: 365CAFF1-CFFC-4F58-8EA9-E057C2A5965C

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.

RWC International
Offeror (Company) Name

600 N. 75th Ave
Address

Phoenix Arizona 85043
City State Zip

mwilson@rwcgroup.com
Email Address

jschouten@rwcgroup.com
Company Email Address

Mary Wilson
Signature of Person Authorized to Sign Offer

Mary Wilson 10.25.2023
Printed Name Date

Government Truck Specialist
Title

602-350-1458
Phone Number

602-307-1051
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 CTR069476 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 18 day of January 20 24

DocuSigned by:
Pamela Veal
Procurement Officer

1/12/2024
Awarded Date

Procurement

STATE OF ARIZONA
ARIZONA DEPARTMENT OF TRANSPORTATION
1655 W. Jackson St., MD 100P
Phoenix, AZ 85007

REQUEST FOR PROPOSAL

SOLICITATION NUMBER: BPM005536

DESCRIPTION: Medium and Heavy Duty Cabs, Chassis and Busses

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.

Tom Kornell
Senior 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) 712-7466. 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) 712-7466.

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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 Medium and Heavy Duty Cabs, Chassis and Busses.

2. INTRODUCTION AND BACKGROUND

2.1. The State of Arizona Department of Transportation (Department) is seeking to contract with a qualified supplier(s) who can provide Medium and Heavy Duty Cabs, Chassis and Busses (all fuel types, hybrid, and full electric) including but not limited to: Trucks and Vans over 19,500 GVWR and Busses 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. The State and its Eligible Agencies currently spend an estimated 30 million dollars in the purchase of Medium and Heavy Duty Cabs, Chassis and Busses annually.

3. GENERAL REQUIREMENTS

3.1. The following are the Three categories covered in this Scope of Work:

1. **Category One: Phase One (1) Cab, Chassis and Busses Purchases**
2. **Category Two: Phase Two (2) Off the Lot Cab, Chassis and Busses Purchases**
3. **Category Three: FTA (If the Contractor chooses not to bid on the FTA Portion of the contract, They may still bid on the Solicitation)**

3.2. Medium and Heavy Duty Cabs, Chassis and Busses 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.

3.3. All Medium and Heavy Duty Cabs, Chassis and Busses 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 Contractor before delivery and ready in all respects for use. For the initial contract period; vehicles shall be new model year 2023 or greater.

3.4. Medium and Heavy Duty Cabs, Chassis and Busses ordered through Phase 2 (on the lot) shall be new (have never been previously owned) unless pre-approved in writing by the Eligible Agency.

3.5. All Medium and Heavy Duty Cabs, Chassis and Busses 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.

3.6. For Phase Two (2) Medium and Heavy Duty Cabs, Chassis and Busses, the Contractor shall supply a quote within five (14) 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.

3.10 For Phase One (1) the Contractor shall confirm vehicles have been ordered unless impossible due to manufacture delay within ninety (90) calendar days after receipt of a purchase order. If confirmation 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 Medium and Heavy Duty Cabs, Chassis and Busses (gasoline, hybrid, full electric) including but not limited to the following categories: Trucks and Vans over 19,500 GVWR and Busses. Eligible Agencies throughout the State will have varying vehicle needs. Contractors are to provide a full line of manufactured Medium and Heavy Duty Cabs, Chassis and Busses 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. The following fuel types are allowable under this contract are to include but are not limited to.

4.2.1. Flexible Fuel Vehicles (FFV) also called Ethanol or E85
4.2.2. Diesel
4.2.3. Gasoline
4.2.4. Compressed Natural Gas (CNG): CNG systems must be O.E.M. or O.E.M. approved
4.2.5. Hybrid-Electric Vehicles (HEV)
4.2.6. Electric Vehicles (EV) also called Battery Electric Vehicles (BEV)
4.2.7. Propane

4.3. Vehicle Up-fit / Modifications

4.3.1. The Eligible Agency may request the awarded Contractor(s) to up-fit/modify any vehicle for specific organizational needs. For example, Chassis' may require a specialized body (i.e.: dump body, landscape body, etc.). Other cab and chassis' require interior and/or exterior modifications per the individual Eligible Agency's request.
4.3.2. 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.

4.4. Minimum Medium and Heavy Duty Cabs, Chassis and Busses 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 (if available)
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. Rear view mirrors on driver and passenger front doors, largest available without upgrading vehicle options package.
b. Back up Camera (if requested by the Eligible Agency or Cooperative)
4.5.12 Arizona legal tinted glass
4.5.13 Minimum of 1 USB charging Ports
4.5.14 Front tow hooks (Specific Requirements for Trucks only when available)

4.5. Decals – Decals or markings of any type pertaining to advertisement other than those installed by the manufacturer such as name and model shall not be attached to any vehicle.

4.6. Fluid Requirements – Contractor shall be responsible for notifying the eligible agency of special fluid requirements that are necessary to maintain standard and extended warranties and service agreements i.e. transmission fluid, anti- freeze, oils and lubricants that must be Original Equipment Manufacturer (OEM) only.

4.7. Service Requirements – All vehicles shall be completely assembled, serviced, adjusted and all equipment including standard and optional equipment shall be installed and the units made ready for continuous operation. Servicing requirements shall include, but not limited to, the following:
4.7.1. Complete lubrication
4.7.2. Checking of all fluid levels to insure that they are filled to the manufacturer's recommended capacity
4.7.3. Full tank(s) of fuel and DEF (diesel exhaust fluid) if required, less delivery fuel and DEF
4.7.4. Engine adjustment to proper operation condition
4.7.5. Tire inflation to correct pressure
4.7.6. Checking of all mechanical and electrical operations
4.7.7. Checking for any appearance defects
4.7.8. Cleaning, removal of all unnecessary tags and stickers, washing if necessary

4.8. Special Title Requirement – There may be a requirement for the title on some vehicles purchased to be titled to other than the ordering eligible agency. The State has programs that require

equipment purchased from special funds be returned to the State's communities. These purchases will be made for authorized political subdivisions.

5. DELIVERY

5.1. Delivery location shall be identified on the issuing agency purchase order. Dealer shall notify the Eligible agency with an estimated delivery date. If factory delays make this impossible for the dealer to deliver when estimated, dealer shall notify the Eligible agency of such delays along with a revised delivery estimate from the factory immediately after it becomes known.

5.2. 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.

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

5.4. The following documents shall be provided upon delivery of the Medium and Heavy Duty Cabs, Chassis and Busses:

5.4.1 M.S.O. (Manufacturer Statement of Origin) that includes the odometer statement
5.4.2 Warranty Document
5.4.3 Delayed warranty / in service start request form (if requested by ordering entity)
5.4.4 Level 1 Inspection if applicable, completed before delivery

6. CONTRACTOR'S RESPONSIBILITIES

6.1. Contractor shall be responsible for processing the registration, licensing, title and plating of all Medium and Heavy Duty Cabs, Chassis and Busses ordered only if requested by the Eligible Agency.

6.2. The Contractor shall include delivery at no cost to the eligible agencies within the same county as the contractor resides. The contractor may include a delivery fee for any county outside of the dealer's county. Any delivery fees shall be a flat rate charge per county and indicated on pricing form attachment.

6.3. In addition to section 4.3.2 above quotes will include the vehicle's MSRP price and the percentage off of MSRP as separate line items.

7. DEPARTMENT'S RESPONSIBILITIES

7.1. The Eligible Agencies will provide final acceptance and approval of any Medium and Heavy Duty Cabs, Chassis, Busses delivered in a timely manner.

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 A.R.S. §41-2632. This cooperative purchasing agreement must be in effect at the time of order. The Contractor shall verify if an ordering entity is an eligible cooperative purchasing member before selling materials to or providing services for them under the contract. The current list of cooperative purchasing members is available on the State Procurement Office website at

https://spo.az.gov/suppliers/usage-reporting.

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.

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

Eligible Agencies 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 an Eligible Agency 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.

Contractor shall acknowledge each order from Eligible Agencies in conformance with each agency's instructions given at the time of ordering. Orders from eligible cooperative purchasing members create no obligation on State's part. Notwithstanding, the Contractor shall fulfill orders under the Contract to any Eligible Agency. The Contractor's refusal to do so would be a material breach of the Contract.

6. **SHIPPING TERMS**

6.1 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

7.1 Delivery address will be listed on the Purchase order issued the eligible agency.
7.2 Deliveries shall be completed In accordance with the requirements of the contract.
7.3 Delivery of the product does not constitute acceptance.

8. INSPECTION AND ACCEPTANCE

8.1 Each item delivered shall be subject to a complete inspection by the Department within 20 days after delivery. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.

8.2 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.

8.3 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.

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

9. INVOICING and PAYMENT

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
- 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
- Applicable Shipping/Freight Charges
- 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

11.1 **Phase 1 and 2 pricing**
Medium and Heavy Duty Cabs, Chassis and Busses shall be a minimum percentage off of MSRP, less the manufacturers rebates and any additional discounts available for that model/power-train combination.

11.1.1 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.

11.1.2 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.

11.1.3 Any reference to Phase 1 pricing shall be in reference to Cabs, Chassis and Busses ordered prior to the factory cut-off date.

11.1.4 Any reference to Phase 2 pricing shall be in reference to Cabs, Chassis and Busses purchased from stock or "on the lot".

11.1.5 Phase 2 pricing shall receive the same cost considerations as Phase 1 pricing, all discounts and rebates should be passed onto the Eligible Agency.

11.1.6 All Cabs, Chassis and Busses are to be billed at prices in effect at the time of order, not the date of shipment.

11.1.7 Pricing for vehicles shall include all discounts and deductions, less Federal and State taxes.

11.1.8 Pricing is all-inclusive, 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.

11.1.9 As changes to Cabs, Chassis and Buss models occur through out the year, contractor may submit request to update models being offered. The discount off of MSRP shall remain the same unless a price increase is submitted per section 13 below in the terms and conditions

11.2 Supplier warrants that, for the term of the Contract, the prices and discounts set out in the offeror and response form, 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.

1.1. 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.

12. **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.

13. 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.

14. 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.

15. 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 All Cabs, Chassis and Busses supplied under these specifications shall be warranted by the Vehicle(s) manufacturers Standard Warranty against mechanical and electrical defects from the date vehicle(s) 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.

16. **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.

17. **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.

18. 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.

19. 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:

If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1655 W. Jackson Street, MD 100P
Phoenix, Arizona 85007-3276

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.

20. 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."

21. 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.

22. INSURANCE REQUIREMENTS

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.

22.1. 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.

22.2. 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.

22.3. Minimum Scope and Limits of Insurance

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

- Commercial General Liability (CGL) – Occurrence Form

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.

22.4. 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.

22.5. 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).

22.6. 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, 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).

- Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

22.7. 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).

22.8. 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.

22.9. 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.

- 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.

- 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.

22.10. 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.

22.11. 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.

22.12. 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.

23. ADMINISTRATIVE FEE

Contractor shall pay State an administrative fee against all Contract sales to Co-op Buyers, as provided for under A.R.S. § 412633. The fee rate prior to January 1, 2024, is one (1%) percent. Rates are set in accordance with SPO Technical Bulletin (TB) 007, available on the SPO website, which may be revised at the State's sole discretion as part of Arizona state procurement policy. For convenience (though note that this link may change over time) TB 007 may be found here:

https://spointra.az.gov/resources/procurement-regulations.

Failure to remit the administrative fees is a material breach of contract, and will entitle the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

https://spo.az.gov/

24. USAGE REPORT

24.1 Administrative Fee Reporting

Contractor shall submit to ADOA-SPO a Quarterly Report documenting all Contract sales to both eligible State agencies and cooperative purchasing members, itemized separately. A Quarterly Report shall be submitted even if there have been no sales. The Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other.

Quarterly reports on transactions with cooperative purchasing members are required to be filed with ADOA-SPO. Failure to remit the administrative fees/usage reports 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 at

https://spo.az.gov/suppliers/usage-reporting.

24.2 ADOT Usage Report Requirements

The Contractor shall furnish ADOT a quarterly report showing all 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

25. 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:

1. Federal Terms and Conditions;
2. Special Terms and Conditions;
3. Uniform Terms and Conditions;
4. Statement or Scope of Work;
5. Specifications;
6. Attachments;
7. Exhibits
8. Special Instructions to Offerors;
9. Uniform Instructions to Offerors; and
10. Other documents referenced or included in the Solicitation

26. 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.

27. 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 which requires the Offeror to submit as part of the Offer.

1.2. "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" 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. "Data" means recorded information, regardless of form or the media on which it may be recorded. The term may include technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

1.6. "Days" means calendar days unless otherwise specified.

1.7. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation generally containing maps, schematics, examples of reports, or other documents that will be used to perform the requirements of the Scope of Work after contract award.

1.8. "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.

1.9. "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.

1.10. "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.

1.11. "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.

1.12. "State" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona that executes the Contract.

1.13. "State Fiscal Year" means the period beginning with July 1 and ending June 30.

1.14. "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 Materials or any Services required for the performance of the Contract.

1.15. "Subcontractor" means a person who contracts to perform work or render Services to a Contractor or to another Subcontractor as a part of a Contract with the State.

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:

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; then
2.3.7. Any other documents referenced or included in the Solicitation including, but not limited to, any Bid or Offer documents provided by the Contractor that do not fall into one of the above categories.

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 any and all Data and other "records" relating to the acquisition and performance of the Contract for a period of five (5) 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 Nos. 2023-09, 2023-01, 2009-09, and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act. Contractor shall include these provisions in contracts with Subcontractors when required by Federal or State law.

3.3. Audit. Pursuant to A.R.S. § 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 as required under A.R.S. § 41-2547. 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, stated in the Contract, or listed on the State's eProcurement system. 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. Continuous Improvement. Contractor shall recommend continuous improvements on an on-going basis in relation to any Materials and Services offered under the Contract, with a view to reducing State costs and improving the quality and efficiency of the provision of Materials or Services. State may require Contractor to engage in continuous improvements throughout the term of the Contract.

3.8. Other Contractors. State may undertake on its own or award other contracts to the same or other suppliers for additional or related work. In such cases, the Contractor shall cooperate fully with State employees and such other suppliers 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, Materials, Services, or records to State or the other suppliers. Contractor shall not commit or permit any act that interferes with the State's or other suppliers' performance of their work, provided that, State shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.

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.

3.9.2. "Government Purpose Rights" are:

3.9.2.1. 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;

3.9.2.2. the right to release or disclose that work product to third parties for

any State government purpose; and

3.9.2.3. 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.

3.9.3. "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.

3.9.4. Joint Developments. The Contractor and State 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.

3.9.5. 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:

3.9.5.1. any derivative works of such pre-existing Materials or elements thereof that are created pursuant to the Contract are part of that work product;

3.9.5.2. any elements of derivative work of such pre-existing Materials that was not created pursuant to the Contract are not part of that work product; and

3.9.5.3. 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.

3.9.6. Developments Outside Of Contract. Unless expressly stated otherwise in the Contract, this Section 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. Property of the State. If there are any materials that are not covered by Section 3.9 above created under this Contract, including but not limited to, reports and other deliverables, these materials 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.

3.11. Federal Immigration and Nationality Act. 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, 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

3.12. 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.

3.13. Offshore Performance of Work involving Data is 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 Data shall be performed within the defined territories of the United States.

3.14. Protection of State Cybersecurity Interests. The Contractor shall comply with State Executive Order No. 2023-10, which includes, but is not limited to, a prohibition against (a) downloading and installing of TikTok on all State-owned and State-leased information technology; and (b) accessing TikTok through State information technology.

3.15. Certifications Required by State Law.

3.15.1. If Contractor is a Company as defined in A.R.S. § 35-393, Contractor certifies that it is not currently engaged in a boycott of Israel as described in A.R.S. §§ 35-393 *et seq*. and will refrain from any such boycott for the duration of this Contract.

3.15.2. Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

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 Materials 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, per A.R.S. § 47-2319, all prices shall be F.O.B. (“free on board”) Destination and shall include all freight delivery and unloading at the destination.

4.3. Firm, Fixed Price. Unless stated otherwise in the Special Terms and Conditions of the Contract, all prices shall be firm-fixed-prices.

4.4. Applicable Taxes

4.4.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.4.2. 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.

4.4.3. 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.

4.4.4. 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.

4.5. 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.

4.6. 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 Materials or Services are not funded, the State may take any of the following actions:

4.6.1. Accept a decrease in price offered by the Contractor;
4.6.2. Cancel the Contract; or
4.6.3. 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 Services or Materials, the revision of payment terms, or the substitution of Services 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 as described in Arizona State Procurement Office Standard Procedure 002. 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 Materials 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).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 Subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.

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 paragraph shall not apply.

6.4. Force Majeure.

6.4.1. Except for payment of sums due, neither the Contractor nor State 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, 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, Materials, or Services 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 the Contractor or State 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 itsprovisions. 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 the Special Terms and Conditions, the Contractor warrants that, for one (1) 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. Conformity to Requirements.

7.3.1. Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for one (1) year after acceptance and in each instance:

7.3.1.1. 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 and all Contractor affirmations included as part of the Contract;

7.3.1.2. Be free from defects of material and workmanship;

7.3.1.3. Conform to or perform in a manner consistent with current industry standards; and

7.3.1.4. Be fit for the intended purpose or use described in the Contract.

7.3.2. Mere delivery or performance does not substitute for express acceptance by the State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation or invoicing, the forgoing warranty will not begin until State's explicit acceptance of the Materials or Services.

7.4. Inspection/Testing. The warranties set forth in this Section 7 [Warranties] are not affected by inspection or testing of or payment for the Materials or Services by the State.

7.5. 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 and all certifications relevant to their work, and Contractor shall provide

individual evidence of certification to State's authorized representatives upon request.

7.6. Compliance With Applicable Laws. The Materials and Services supplied under this Contract shall comply with all applicable federal, state, and local laws and policies (including, but not limited to, information technology policies, standards, and procedures available on the State's website and/or the website of any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona). Federal requirements may be incorporated into this Contract, if required, pursuant to A.R.S. § 41-2637. Contractor shall maintain any and all applicable license and permit requirements. This requirement includes, but is not limited to, any and all Arizona state statutes that impact state contracts, regardless of whether those statutory references have been removed during the course of contract negotiations; this is notice to Contractors that the State does not have the authority to modify Arizona state law by contract.

7.7. 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.

7.8. Licenses and Permits. Contractor warrants that it will maintain all licenses required to fully perform its duties under the Contract and all required permits valid and in force.

7.9. 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 5.3 [Assignment and Delegation] that expressly recognizes the event.

7.10. Performance in Public Health Emergency. Contractor warrants that it will:

7.10.1. 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:

7.10.1.1. Identification of response personnel by name;

7.10.1.2. Key succession and performance responses in the event of sudden and significant decrease in workforce; and

7.10.1.3. Alternative avenues to keep sufficient product on hand or

in the supply chain.

7.10.2. Provide a copy of its current plan to State within three (3) business days after State's written request. If Contractor claims relief under paragraph 6.4 [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.

7.10.3. A request from the State related to this paragraph 7.10 does not necessarily indicate that there has been an occurrence of force majeure, and the Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement a plan.

7.10.4. Failure to have or implement an appropriate plan will be a material breach of contract.

7.11. Lobbying

7.11.1. Prohibition. Contractor warrants that it will not engage in lobbying activities, as defined in 40 Code of Federal Regulations (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 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 7.11 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.

7.12. Covered Telecommunications or Services. Contractor warrants that the Materials and Services rendered under this Agreement will not require Contractor to use for the State, or provide to the State to use, "covered telecommunications equipment or Services" as a substantial or essential component of any system, or as critical

technology as part of any system, within the meaning of Federal Acquisition Regulation ("FAR") Section 52.204-25.

7.13. Debarment, Suspension, U.S. Government Restricted Party Lists. Contractor warrants that it is not, and its Subcontractors are not, on the U.S. government's Denied Parties List, the Unverified List, the Entities List, the Specially Designated Nationals and Blocked Parties List, and neither the Contractor nor any Subcontractors are presently debarred, suspended, proposed for debarment or otherwise declared ineligible for award of federal contracts or participation in federal assistance programs or activities.

7.14. False Statements. Contractor represents and warrants that all statements and information Contractor prepared and submitted in response to the Solicitation or as part of the Contract documents are current, complete, true, and accurate. If the Procurement Officer determines that Contractor submitted an Offer or Bid with a false statement, or makes material misrepresentations during the performance of the Contract, the Procurement Officer may determine that Contractor has materially breached the Contract and may void the submitted Offer or Bid and any resulting Contract.

7.15. Survival of Rights and Obligations after Contract Expiration or Termination.

7.15.1. Survival of Warranty. All representations and warranties made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

7.15.2. 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.

7.15.3. 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 with 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 (3) 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 or Services accepted before the effective date of the termination. The cost principles and procedures provided in A.R.S. § 41-2543 and A.A.C. Title 2, Chapter 7, Article 7, 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. 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 (A.R.S. Title 41).

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. 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 sub grantee 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 sub grantee 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 sub grantee 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 sub grantee 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).

3. 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.

4. AMERICAN WITH DISABILITIES ACT (ADA)

Contractor agrees to comply with all applicable requirements of Section 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 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.

5. BUS TESTING

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.

6. 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 - 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.

7. BUY AMERICA

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 Domestic preferences for procurements.

The bidder or offeror shall submit to the Agency the appropriate Buy America certification. Bids or proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. For more information please see the FTA's Buy America webpage at: https://transit.dot.gov/buyamerica.

8. 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.

9. 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.

10. 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.

11. CIVIL RIGHTS LAWS AND REQUIREMENTS

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:

   a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25 prohibits discrimination on the basis of sex.

3. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibits employment discrimination against individuals age 40 and over on the basis of age.

4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

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 Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with 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, disability, or age. In

addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA 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 et seq., 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. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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 FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, 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 FTA may issue.

4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

12. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

Contractor shall 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 FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of $250,000.

Clean Air

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

2) Contractor shall report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assurance notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Agency Regional Office

3) Contractor shall include these requirements in each subcontract exceeding $250,000 financed in whole or in part with FTA assistance.

13. 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 sub-agreements.

14. 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 comply shall constitute a material breach of this contract.

15. 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 517(d) 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.

16. 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 or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. **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.

2. **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 therefore 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.

3. **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.

4. **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.

17. DEBARMENT OR SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. 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 any 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 2 C.F.R. part 180, Subpart C as supplemented by 2 C.F.R. part 1200, 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.

18. 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 business 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 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.

FAILURE TO SUBMIT THE REQUIRED BIDDERS/PROPOSERS LIST CONFIRMATION EMAIL WITH THE OFFER BY THE STATED TIME AND IN THE MANNER HEREIN SPECIFIED AND AS OUTLINED IN THE RFQ SHALL BE CAUSE FOR THE PROPOSER'S OFFER TO BE REJECTED.

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 subcontractor contract modification for the work to be completed on the Task Assignment was executed before the DBE suspension or decertification is effective.

A subcontractor 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 workforce, 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.

19. 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.

20. FEDERAL CHANGES

The Contactor and its subcontractors 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.

21. 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.

22. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Department 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 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.

23. 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.

24. 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.

25. PRE-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.

26. 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 U.S.C. §3801 et seq. and U.S.DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 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. Chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) (5323(I)) 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.

27. PROMPT PAY

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 7 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.

28. RESTRICTIONS ON 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 {01 Lobbying 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.

29. 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 sub agreement at each tier supported with federal assistance.

30. 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 U.S.C. 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 comply shall constitute a material breach of this contract.

31. TERMINATION

Termination of the contract shall be in accordance with the Uniform Terms and Conditions, Section 9., paragraph 9.1 through 9.6.

32. 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 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.

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
Quarterly Usage Report

Quarterly 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	Part/Product Code	Quantity	Unit of Measure	Contract Unit Price	Contract Extended Price	Invoice Number

Exhibit NO 4.
PRE-AWARD CERTIFICATION FOR PROCUREMENT OF ROLLING STOCK (Recipient)

BUY AMERICA REQUIREMENTS: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:

A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and

B. 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.

C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.

D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

As required by Title 49 of the CFR, Part 663 – Subpart B, _____ (the recipient) is satisfied that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient or its appointed analyst _____ the analyst, not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the buses identified by manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the buses, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

PREAWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, _____ (the recipient) certifies that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

PREAWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, _____ (the recipient) certifies that it received, at the pre-award stage, a copy of _____ 's (the manufacturer) self-certification information stating that the buses,_____ (number and description of buses), will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date : _____

Signature : _____

Title : _____

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.

DESCRIPTION OF PRE-AWARD AUDIT: A pre-award audit under this part includes— (a) A Buy America Certification; (b) A purchaser's requirements certification; and (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information.

PREAWARD BUY AMERICA CERTIFICATION: For purposes of this part, a pre-award 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 to be purchased from the Buy America requirements under section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

b. The recipient is satisfied that the rolling stock to be purchased 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 through an audit prepared by someone other than the manufacturer or its agent documentation provided by the Manufacturer which lists:

   1. The Component and subcomponent parts of the rolling stock that are produced in the United States is more than sixty percent (60%) of the cost of all components and subcomponents of the vehicle Identified by the manufacturer; and

   2. The location of the final assembly must take place in the United States (49 CFR 661.11), including a description of the activities that will take place at the final assembly point and the cost of final assembly.

PRE-AWARD PURCHASERS REQUIREMENTS CERTIFICATION: For purposes of this part, a pre-award purchaser's requirements certification is a certification a recipient keeps on file that:

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 specification set forth in the recipient's solicitation.

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirements in 49 CFR 661.13(b).

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION: As required by Title 49 of the CFR, Part 663 – Subpart D, the recipient certifies that it received, at the pre-award stage, a copy of the manufacturers self-certification information stating that the buses will comply with the relevant Federal Motor Vehicle Safety

Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Bidder or Offeror Certificate of COMPLIANCE with Buy America and FMVSS Rolling Stock Requirements

As required by 49 CFR Part 663, the bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Company _____

Name _____ Title _____

Signature _____ Date _____/_____/_____

Bidder or Offeror Certificate of NONCOMPLIANCE with Buy America and FMVSS Rolling Stock Requirements

As required by 49 CFR Part 663, the bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Company _____

Name _____ Title _____

Signature _____ Date _____/_____/_____

Exhibit NO. 6
ON-SITE MANUFACTURER INPSECTION 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 _____

ARIZONA DEPARTMENT OF TRANSPORTATION

Procurement

CERTIFICATION OF FINAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) PAYMENT

Procurement Contracts

(submit one form for each DBE involved in contract)

The undersigned Contractor, in accordance with Contract No._____, hereby certifies that full payment was made to the firm indicated for material and/or work performed under this project's contract as follows:

DBE firm AZ UTRACS Registration # _____
Name of DBE Firm_____ was paid the amount of_____

This certificate is made under Federal and State Laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three years from project acceptance date. In the event the DBE was not paid in accordance with affidavits submitted by the prime contractor, all documentation supporting the contractor's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENT MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Contractor Company Name: _____

Check One: ☐ Prime Contractor ☐ Subcontractor

Name: _____ **Title:** _____

Signature: _____

Date: _____

The undersigned subcontractor/supplier/manufacturer for the above named project hereby certified that payments were received and/or justification by contractor is correct.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENT MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

DBE Firm Name: _____

Check One: ☐ Subcontractor/Supplier/Manufacturer ☐ Lower-tier Subcontractor/Supplier/Manufacturer

Name: _____ **Title:** _____

Signature: _____

BECO Form 310PS (Rev 09-23-2021)

PRICING SHEET

Medium and Heavy Duty Cabs, Chassis and Busses

OFFEROR RWC International

Category 1: Medium and Heavy Duty Cabs and Chassis

Instructions: The basis for pricing shall be fixed discount(s) off Manufacturers Suggested Retail Price (MSRP). The discount offers shall clearly identify the percent of discount to apply to the contract category. Proposed products shall be for Medium and Heavy Duty Cabs and Chassis in current production and marketed to the general public and education/government agencies at the time the proposal is submitted. For each manufacturer and/or product line offered, include at minimum, manufacturer's name, model or classification and percent off of MSRP for each phase.

Phase One (1) off the Line pricing

Manufacturer/Model/Classification	Percent Off of MSRP
International/CV515/Class 4,5,6	1%
International/eMV607/Class 6, 7 and 8	1%
International/MV607LP/Class 5,6,7 and 8	26%
International/MV607 SBA/Class 5, 6 and 7	26%
International/HV507 SFA/Class 6, 7, 8	26%
International/HV607 SBA/Class 6,7 and 8	26%
International/HV513 SFA/ Class 7 and 8	42%
International/HV613 SBA/ Class 7 and 8	42%
International/HX520 SFA/Class 8	42%
International/HX620 SBA/Class 8	42%
International/RH613 6x4/Class 8	45%
International/LT625 6x4/Class 8	45%
Isuzu/NPR /Gas/Class 4	8%
Isuzu/NPR HD / Gas/Class 4	8%
Isuzu/NQR /Gas/Class 4	8%
Isuzu/NRR HD / Gas/Class 5	8%
Isuzu/NPR HD /Diesel/Class 4	8%
Isuzu/NPR XD / Diesel/Class 4	8%
Isuzu/NQR Diesel/Class 4	8%
Isuzu/NRR Diesel/Class 5	8%
Isuzu/FTR Diesel/Class 6	8%
Isuzu/FVR Diesel/Class 7 and 8	8%
Isuzu/FVR Derate Diesel/Class 7	8%
Dennis-Eagle/ Diesel/ Class 8	1%

Phase Two (2) off the Lot Pricing

Manufacturer/Model/Classification	Percent Off of MSRP
International/CV515/Class 4,5,6	1%
International/eMV607/Class 6, 7 and 8	1%
International/MV607LP/Class 5,6,7 and 8	26%
International/MV607 SBA/Class 5, 6 and 7	26%
International/HV507 SFA/Class 6, 7, 8	26%
International/HV607 SBA/Class 6,7 and 8	26%
International/HV513 SFA/ Class 7 and 8	42%
International/HV613 SBA/ Class 7 and 8	42%
International/HX520 SFA/Class 8	42%
International/HX620 SBA/Class 8	42%
International/RH613 6x4/Class 8	45%
International/LT625 6x4/Class 8	45%
Isuzu/NPR /Gas/Class 4	8%
Isuzu/NPR HD / Gas/Class 4	8%
Isuzu/NQR /Gas/Class 4	8%
Isuzu/NRR HD / Gas/Class 5	8%
Isuzu/NPR HD /Diesel/Class 4	8%
Isuzu/NPR XD / Diesel/Class 4	8%
Isuzu/NQR Diesel/Class 4	8%
Isuzu/NRR Diesel/Class 5	8%
Isuzu/FTR Diesel/Class 6	8%
Isuzu/FVR Diesel/Class 7 and 8	8%
Isuzu/FVR Derate Diesel/Class 7	8%
Dennis-Eagle/ Diesel/ Class 8	1%

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Tyrone Johnson, Recreation Supervisor

Co-Submitter: Daniel Carrick

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Contract: Cooperative Purchase Contract with Zamboni Company USA, Inc. in the amount of $222,135.00, plus other fees and taxes, for a fully electric Zamboni ice resurfacing vehicle.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Zamboni Company USA, Inc. in the amount of $222,135.00, plus other fees and taxes, for a fully electric Zamboni ice resurfacing vehicle; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Zamboni Company USA, Inc. holds a cooperative procurement agreement with Sourcewell (#120320-FZC). An ice resurfacing vehicle is a vital piece of equipment used daily in proper maintenance of ice rinks. Parks, Recreation, Open Space and Events (PROSE), with approval by the Fleet Management Committee, is seeking to replace an ice resurfacing vehicle from 1996 which has reached the end of its useful life. The current ice resurfacer, which was purchased in 2014, will become the backup. Most importantly is that the new ice resurface vehicle is fully electric to become the vital piece of equipment used daily for over 16-hours per day, 7-days per week. The savings on usage of propane will be analyzed as the typical fueling aspect for an ice resurface vehicle, and the switch to fully electric meets the Carbon Neutrality Plan which is an overarching goal of the PROSE team.

Financial Impact:

Funding for this unit was approved by the Fleet Management Committee during the FY2024-25 budget process with funds placed in the Recreation Section rolling stock fleet (001-11-156-0590-5-4401) account in the amount of $220,000.00. The remaining balance of funding to cover the cost overage of $20,000.00 for estimated tax, will be covered between the Recreation Section Capital account 001-11-156-0580-5-4409 and PROSE Project account 055-11-158-3067-5-4433.

Policy Impact:

Meets the Carbon Neutrality Plan through Electric Mobility.

Previous Council Decision or Community Discussion:

There have been no previous Council discussion on this item, other than the approved fiscal year 2024-2025 budget.

Options and Alternatives to Recommended Action:

Not approve the budgeted purchase for the ice resurfacing vehicle.

Background and History:

PROSE staff have reviewed the entire Division fleet with continual touches on the priority needs keeping electrification at the forefront. Through PROSE representatives and the Fleet Management Committee with full support, the team identified this large replacement ice resurfacing vehicle as a high priority for rolling stock funds for FY24/25 knowing that there are large Fleet needs of partner Divisions in the fiscal years forward.

The manufacturer, Zamboni Company USA, Inc., has been awarded a cooperative procurement contract with Sourcewell, meeting the needs of both the PROSE Division and Management Services Division. The City Procurement team reviewed the agency contract for validity and fairness. Resulting in a Cooperative Purchase Contract to purchase the electric ice resurfacer for $222,135.

The electric Zamboni will be used daily during the operating hours of Jay Lively Activity Center (ice rink) 365 days per year. The current 2014 propane fueled Zamboni will be used as the backup vehicle when needed, placing the ice rink operations in a manageable setting for a large amount of years pertaining to fleet.

Connection to PBB Priorities and Objectives:
Environmental Stewardship, and Sustainable, Innovative Infrastructure

Connection to Regional Plan:
Goal E.1.13 Promote and encourage the use of fuel-efficient vehicles that use renewable fuels.

Connection to Carbon Neutrality Plan:
EM-3: Support residents, businesses, and institutions in the transition to electric vehicles.

Connection to 10-Year Housing Plan:
There is no connection to the 10-year housing plan.

Attachments: 2025-45 Zamboni complete

COOPERATIVE PURCHASE CONTRACT
Contract No. 2025-45

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 Zamboni Company USA, Inc., a California Corporation ("Contractor").

RECITALS:

A. Contractor is a dealer as described in the Agency Contract; and

B. Sourcewell, a State of Minnesota local government agency conducted a competitive and open procurement process through Request for Proposal Solicitation No. #120320 that resulted in Contract #120320-FZC 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 the City the materials and/or services, as specified in the Scope of Work attached as *Exhibit A*, and in accordance with the Agency Contract. A general description of materials and/or services being purchased is:

ZAMBONI MODEL 552 AC ELECTRIC

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 attached as *Exhibit A* and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and/or services provided is **two hundred twenty-two thousand, one hundred thirty-five dollars and zero cents ($222,135.00), plus 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 attached as *Exhibit B*, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract, including, specifically changes in price for materials and/or services.

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 the Contract shall be in writing and sent by certified mail and email as follows:

To the City:
Emily Markel, Purchasing Manager
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
Emarkel@flagstaffaz.gov
Phone: 928-213-2276

To Contractor:
Doug Peters
Zamboni Company USA, Inc.
15714 Colorado Ave
Paramount, CA 90723
doug@zamboni.com
Phone: 562-633-0751 x-111

With a copy to:
Dan Carrick, Recreation Supervisor
City of Flagstaff
Jay Lively Activity Center
1650 N Turquoise Dr
Flagstaff, AZ 86001
dcarrick@flagstaffaz.gov
Phone: 928-213-2276

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

ZAMBONI COMPANY USA, INC.:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney’s Office

Last Updated July 20,2023

EXHIBIT A
QUOTE
(attached)

1. Zamboni Company USA, Inc. Quote (4 pages)

ZAMBONI COMPANY USA, INC.

15714 Colorado Ave. Paramount, CA 90723 USA +1 562 633 0751 +1 562 633 9365 zamboni.com

July 1, 2024

Daniel Carrick
Jay Lively Activity Center
1650 N Turquoise Dr.
Flagstaff, AZ 86001



PROPOSAL

“The principal product you have to sell is the ice itself.”

– Frank J. Zamboni

Maintaining an ice surface presents a multitude of challenges. Having efficient and reliable resurfacing equipment should not be one of them. Driven by our founder’s commitment to innovation, we put our product to the test in the harsh environment it will call home. Every feature is deliberately designed to make resurfacing easier and to ensure that the end result is an exceptional sheet of ice. Built by hand. One at a time. The result is an ice resurfacing machine legendary for its quality, durability and superior performance.

MODEL 552AC:
Clean ice. Clean air. Clear choice. Building upon the solid reputation of its predecessor, the Model 552AC features worry-free AC motors and controls, introducing new efficiencies and virtually eliminating associated maintenance. The battery package is easy to access and maintain. Proven and dependable controls built for tough industrial applications. Microprocessor controlled smart chargers deliver long battery life. The Model 552AC provides a low maintenance option for your high maintenance surface.

MODEL 552AC LITHIUM-ION (OPTIONAL):
Zero battery maintenance and lithium-ion power combine for the ultimate upgrade to the world’s most popular electric ice resurfacer. Lithium-ion batteries charge quickly between resurfacings, eliminating overnight charging. Sealed zero maintenance batteries are truly emission-free. Charging is controlled by battery management system to optimize charging and balancing. Strong conveyor performance at any speed. Our unrivaled down pressure system ensures that all you leave behind is perfect.

INNOVATION:
Our commitment to constant innovation is an investment in the end product. We apply decades of experience working with facility owners and operators into every decision we make. Automated processes provide a consistent end result and reduce the chance for operator error. Opportunities to retrieve and display data from the machine provide a new tool in rink management. The incremental

and continued introduction of new and better technologies to our ice resurfacing machines facilitates savings of time and valuable resources.

QUALITY:
Zamboni sets the standard of quality to which the industry is held. The Zamboni Company holds itself to an even higher standard with ongoing assessment and meticulous quality control, resulting in products which consistently produce the finest sheet of ice even after many years of use. Our rugged four-wheel drive chassis is hand-built using strong all-welded steel tubing. Premium materials and components are used throughout. We continually collaborate with our customers to ensure the products that will ultimately end up in their facility exceed the high expectations of quality associated with our brand.

VALUE:
Zamboni has a well-deserved reputation as the Industry Leader. One which we don't take for granted. Our products have the lowest cost of operation and maintain the highest residual value. A network of Zamboni Authorized Distributors and our own Customer Service teams provide local service and support for our products. In the world of ice, time is money and unreliable equipment can be a show-stopper. Yet another reason that worldwide, more facility operators choose Zamboni for their ice resurfacing needs. Nothing else is even close.

MACHINE SPECIFICATIONS:
Machine specifications are also available online. Please copy the web links below into your browser.
https://zamboni.com/wp-content/uploads/specs/552AC_specs.pdf
https://zamboni.com/wp-content/uploads/specs/552AC_Lithium-ion_specs.pdf

MANUFACTURER'S STATEMENT:
This machine is proudly designed and manufactured in Paramount, California by Zamboni Company USA, Inc., a United States company.

WARRANTY:
Twenty-Four (24) months or 2,000 hours, whichever comes first, parts replacement only.

SAFETY STANDARDS:
This machine is engineered to meet or exceed OSHA and ANSI safety labeling requirements.
In addition to digital safety information, operating instructions and service manuals being provided with the delivery of the machine, all owners/operators have access to all of these materials online at **www.zamboni.com** to view and download at any time.

FOR ADDITIONAL INFORMATION:

zamboni.com/machines/model-552ac

zamboni.com/machines/model-552ac-lithium-ion

zamboni.com/options

Zamboni 552AC	**$**	**136,000.00**
STANDARD EQUIPMENT INCLUDES:		
with Charger, Aluminum Wheels, Guide Wheel, Black Powder Coated Conditioner, Parking Brake, Conditioner Poly Side Plate, Spare Tire & Wheel Assembly, (2) 77" Blades		

ADDITIONAL EQUIPMENT:		
Lithium Ion Battery and Charger (In Lieu of Lead Acid)	$	13,750.00
Back Up Alarm	$	790
Board Brush	$	6,495.00
Power Brush Fill	$	420
Wash Water System w/ Poly Tank	$	5,450.00
Electronic Water Level Sight Gauge	$	565
Snow Tank Light	$	475
Advanced Water System	$	5,850.00
Tire Wash System	$	1,585.00
Auto Snow Breaker	$	1,985.00
Stainless Steel Water Distribution Pipe	$	455
Viscous Coupling Drive Shaft	$	1,925.00
Integrated Auger Wash Out System	$	1,395.00
Level Ice (installation & training additional)	$	21,500.00
Fast Ice	$	18,995.00
Subtotal	$	217,635.00
Transportation (Estimate to be adjusted at time of shipment)	$	4,500.00
Total	**$**	**222,135.00**

F.O.B:
Paramount, California USA

TERMS:
$25,000.00 deposit with order, balance Net 30 days from date of shipment.
Shipment 400 days or sooner from receipt of order. Pricing firm for 30 days.
Pricing does not include any applicable sales tax.

THANK YOU:

Logan Wescott

July 1, 2024

Logan Wescott,
Regional Sales Manager

Date

Zamboni Company USA, Inc.
15714 Colorado Ave. Paramount, California 90723 USA
Phone: +1 323 301 5843 Fax: +1 562 633 9365

EXHIBIT B
AGENCY CONTRACT
(attached)

1. Sourcewell RFP/Contract #120320-FZC (33 pages)
2. Sourcewell #120320-FZC Zamboni Extension (1 page)

DocuSign Envelope ID: BAC2804E-59B4-4D63-A68A-019067C64C6D

CONTRACT EXTENSION

Contract Number: 120320-FZC

Sourcewell
202 12th Street Northeast
P.O. Box 219
Staples, MN 56479
(Sourcewell)

and

Zamboni
15714 Colorado Ave

Paramount, California 90723-4211
(Vendor)

have entered into Contract Number: 120320-FZC
for the procurement of: Ice Rink and Arena Equipment with Related Supplies and Services

The Contract has an expiration date of 2025-01-08 , but the parties may extend the Contract by mutual consent.

Sourcewell and Vendor acknowledge that extending the Contract benefits the Vendor, Sourcewell and Sourcewell's Members. Vendor and Sourcewell agree to extend the Contract listed above for an additional period, with a new Contract expiration date of 2026-01-08 . All other terms and conditions of the Contract remain in full force and effect.

Sourcewell

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...
Authorized Signature

Jeremy Schwartz
Name

Chief Operating and Procurement Officer
Title

3/29/2024 | 8:56 AM CDT
Date

DocuSigned by:
Doug Peters
8F993CFC0A14412...
Authorized Signature

Doug Peters
Name

Regional Sales Manager
Title

4/3/2024 | 2:53 PM PDT
Date

DocuSign Envelope ID: C2BE3F15-AC86-41DF-A02D-4D000967EDF4

Sourcewell

Solicitation Number: 120320

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Zamboni Company USA, Inc., for itself and for affiliate, Frank J. Zamboni & Co. Inc., 15714 Colorado Ave., Paramount, CA 90723 (collectively 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. Sourcewell issued a public solicitation for Ice Rink and Arena Equipment with Related Supplies and Services from which Vendor was awarded a contract.

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 January 8, 2025, unless it is cancelled sooner pursuant to Article 22. 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 14 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.

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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 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

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time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

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

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restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will 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 participating entities 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.

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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.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, 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. 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.

D. 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.

E. 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 payment 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 Vendor's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. 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. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. AUDIT. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six 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.

B. 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.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

D. 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.

E. 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. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. 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

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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 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. 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.

13. 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 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.

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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. 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.

5. 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.

14. 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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15. 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.

16. 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.

17. 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.

18. 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. *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.

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.

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

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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/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. 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.

20. 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 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.

21. 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

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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 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

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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.

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

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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 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.

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22. 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:
Jeremy Schwartz
C0FD2A139D06489...

By: _____

Jeremy Schwartz

Title: Director of Operations & Procurement/CPO

Date: 1/6/2021 | 1:42 PM CST

Zamboni Company USA, Inc., for itself and affiliate, Frank J. Zamboni & Co. Inc. (collectively Vendor)

DocuSigned by:
Doug Peters
8F993CFC0A14412...

By: _____

Doug Peters

Title: Regional Sales Manager

Date: 1/6/2021 | 12:33 PM PST

Approved:

DocuSigned by:
Chad Coauette
7E42B8F817A64CC...

By: _____

Chad Coauette

Title: Executive Director/CEO

Date: 1/6/2021 | 2:40 PM CST

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RFP 120320 - Ice Rink and Arena Equipment with Related Supplies and Services

Vendor Details

Company Name:	Zamboni Company USA, Inc
Does your company conduct business under any other name? If yes, please state:	Frank J Zamboni & Co Inc
Address:	15714 Colorado Ave Paramount, CA 90723
Contact:	Doug Peters
Email:	doug@zamboni.com
Phone:	562-633-0751 111
Fax:	562-633-9365
HST#:	95-2982566

Submission Details

Created On:	Monday November 23, 2020 10:55:38
Submitted On:	Wednesday December 02, 2020 14:28:18
Submitted By:	Doug Peters
Email:	doug@zamboni.com
Transaction #:	f60a80f1-c821-4caf-ae11-2c818fb8f888
Submitter's IP Address:	47.6.94.9

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):	Zamboni Company USA, Inc Frank J. Zamboni & Co. Inc.	*
2	Proposer Address:	15714 Colorado Ave Paramount CA 90723	*
3	Proposer website address:	www.zamboni.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):	Doug Peters Regional Sales Manager 15714 Colorado Ave Paramount CA 90723 800-926-2664 x 111 562-205-8418	*
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Doug Peters Regional Sales Manager 15714 Colorado Ave Paramount CA 90723 800-926-2664 x 111 562-205-8418	*
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	None	

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.	Zamboni brand ice resurfacers were the first ice resurfacing machine introduced to the ice arena marketplace. We have been in business for over 70 years and continue to lead the ice resurfacing marketplace in machines sold, innovation and introducing new features and technology to our industry. Our founder Frank Zamboni owned and operated ice rinks that are still in operation today. He understood that the principal product that he was selling was a sheet of ice. He also understood that in order to keep the guests coming back that he was going to need it to be a smooth and attractive sheet of ice. In order to provide this Frank began to tinker around to try to develop a machine that would shave the ice surface, wash it, pick up the shavings and lay down water to provide that attractive finished sheet of ice that the skaters desired. With this Frank developed the world's first ice resurfacer. Now over 70 years later the Company that he founded still produces each machine by hand, individually for each customer. We serve a small marketplace and as such work hard to secure each order as well as provide each and every customer with the customer service they have grown to expect since the formation of the company and first machine was sold. We support industry organizations such as MIAMA, WIAMA, NEISMA, NRPA, ISI, IAVM, USIRA that cater to our industry. We work with them to provide educational information as well as participate in their conferences so that our customers know how to safely operate and maintain our machines for the longest possible life of the equipment.	*

8	What are your company's expectations in the event of an award?	In the event that we are again awarded a contract with Sourcewell, it would be our goal to continue to grow our sales numbers through the contract. We are continually educating our customers on the benefit the Sourcewell advantage. We are extremely excited about the fact that we have secured 7 orders this year under the Sourcewell contract in Canada that will be shipping in 2021. We also have the expectation of another 6 Canadian orders in the first quarter of 2021 . If we are awarded another contract we only expect this number to grow as our Canadian customers learn the benefits of Sourcewell. A few of our Canadian dealers have additional experience with the Sourcewell process as they have other lines that they sell that also have a Sourcewell contract.	*
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.	We are a privately held company that does not release its financial details. For over 70 years of operation we have had open lines of credit with such companies as Dana Corp, ITT Jabsco, VW of America, Sundstrand and Vickers. Our Dunn & Bradstreet # is 008501066	*
10	What is your US market share for the solutions that you are proposing?	The Zamboni Company is the dominant producer of ice resurfacers exceeding 85% of the marketplace in the USA	*
11	What is your Canadian market share for the solutions that you are proposing?	The Zamboni Company is the dominant producer of ice resurfacers exceeding 75% of the marketplace in 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?	Zamboni Company USA is the world renowned manufacturer of Zamboni ice resurfacers, ice edgers with related options and features for both. In addition to our Paramount CA plant we also have manufacturing facilities in Brantford Ontario Canada and Osterfarnebo Sweden. We also recently acquired our dealer for the Province of Quebec. We have a dealer network throughout the USA, Canada and the world to both sell and service our customers. Each dealer is independently owned and operated with no financial ties to the Zamboni Company. Our dealers are educated on the Sourcewell contract as well as some of them having attended regional get to know Sourcewell meetings when they were able to be held. Our dealers provide parts and service to our customers and in some cases direct sales of new machines.	*
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.	To our knowledge other than a standard business licenses which we have for each of our locations there are no other certifications required to produce and sell our machines. We are in the process and hope to be ISO certified at our Canadian plant within the next 3 months	*
15	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	None	*

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	Our founder Frank and his son Richard have been inducted into numerous HOF's which includes the USHOF and the National Inventors HOF. Frank was also awarded an honorary doctorate from Clarkson University. Our industry is not large enough that companies are typically recognized for their efforts. Many of our staff have received individual awards for their efforts within organizations that are specific to our industry.	*
17	What percentage of your sales are to the governmental sector in the past three years	This percentage will vary from month to month and year to year depending on the customers needs for new equipment. We would estimate that it could be as high as 65% or as low as 30% in any given month.	*
18	What percentage of your sales are to the education sector in the past three years	As this is a smaller segment of our industry in that there are not as many Schools or Colleges that have their own ice rink we would estimate that this would likely be less than 10% annually	*
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?	The only co-op contract that we hold at this time is with Sourcewell. In the last 3 years we are just under $15 million dollars in sales under our Sourcewell contract.	*
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 St Louis Park	Jason Eisold	952-924-2547	*
Glenview Ice Center	Jim Weides	847-724-2800	*
City of Crookston	Scott Riopelle	218-281-1242	*

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 *	
Ramsey County Parks and Recreation	Government	Minnesota - MN	Ice Resurfacers	4	$521,617.50	*
City of St Louis Park	Government	Minnesota - MN	Ice Resurfacers	2	$320,798.40	*
Community First Champion Center	Government	Wisconsin - WI	Ice Resurfacers	2	$283,125.40	*
City of Fergus Falls	Government	Minnesota - MN	Ice Resurfacers	2	$262,928.20	*
City of Crookston	Government	Minnesota - MN	Ice Resurfacers	2	$264,519.00	*

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.	In the USA we have a dealer in NJ who handles portions of NY, PA, CT and all of Washington DC, DE, MD, NJ, & VA (3 sales people) We have another dealer in FL who handles AL, AR, FL, GA, LA, MS, NC, SC and TN (2 sales people). The balance of the USA is handled out of the Paramount CA headquarters (2 sales people). In Canada we have dealers in all Provinces with the exception of Saskatchewan and Manitoba. Both are handled by one dealer headquartered in Manitoba with a sales and service office in Saskatchewan. Each one of these dealers has at least 2 dedicated sales people to handle our line of machines. Our plant in Brantford Ontario handles the Ontario marketplace (3 sales people) While we purchased our dealer in Quebec we did not change the structure of the operation there. They continue to offer sales and service with oversight from our Brantford facility.	*
24	Dealer network or other distribution methods.	Sales of our products is handled through the dealer network as described in Line Item 23. Where we do not have a dealer handling a particular State in the USA we handle the sales directly from Paramount CA. In Canada our operation in Brantford Ontario handles the Province of Ontario with the dealers handling the balance of the provinces as described.	*
25	Service force.	In the USA we have factory authorized service locations in Somerset WI, Kalamazoo MI, Huntington MA, West Concord MA, and Flanders NJ in addition to the dealers in those areas. We will often source fork lift repair companies to work with if we have a customer that is in a remote location who needs service. As many of our customers are in smaller remote cities it is not practical to have a dealer for each and every State.	*
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.	Customer service is provided by any of our team members within their territory as well as out of our Paramount CA location. In Canada each dealer takes care of their Province and can also be assisted by our plant in Brantford or dealership in Quebec. We understand the business of ice as Frank was a rink owner and the family still owns rinks so we no how critical it is to get our machines back in operation when they have an issue. In most cases we are able to get our customers back up and operational in no more than 24 hours.	*
27	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	We are willing and able to sell and service our machines in all 50 US States. As long as the customer is eligible to purchase a machine under the Sourcewell contract we are more than happy to sell it under the Sourcewell contract.	*
28	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	We are willing and able to sell and service our machines in Canada wherever the Sourcewell contract is accepted. As stated previously we have several of our Canadian dealers who were already familiar with the process as they handle additional lines that have Sourcewell contract pricing.	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	There are no areas in either the USA or Canada that we would not be interested in selling to provided they can accept and purchase under the Sourcewell contract or a related affiliate.	*
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?	There are no government, educational facilities, or not for profits that we would not sell to.	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	We know of no restrictions in Hawaii other than there is only 1 rink and it is a private operation. In Alaska we have no issues as we have sold several machines already and have another booked already for 2021.	*

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.	We prominently display the Sourcewell Awarded Contract on our Company profile page with links to the Sourcewell website. When displaying at trade shows we use Sourcewell supplied marketing materials to promote the fact that we have been awarded a Sourcewell Contract. We have made specific posts to social media sites advising our customers about our Sourcewell Awarded Contract. We have recorded an episode for our Ask the Zamboni Experts podcast series with staff from Sourcewell to further educate our customers about the ease of utilizing Sourcewell for the purchase of our machines. We have participated in Webinars in Canada that talk about the Sourcewell Contract and how they can utilize it to streamline the purchase process. We continue to search out ways to work with Sourcewell to promote the use of our contract to benefit our customers, ourselves and Sourcewell.	*
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	We introduced to the marketplace this year our podcast Ask the Zamboni Experts. It is a mix of episodes that touch on available features or operation of our machines to discussions with industry leaders. Mixed in to this to keep some of them entertaining and to try to lighten the mood in the world we live in today are episodes that include Dave Hanson of the movie Slapshot, Kenny Albert renowned sports play by play announcer and former NHL players Reed Larson, Dennis Hextall and Henry Boucha. We also utilize Facebook, Twitter, LinkedIn, Instagram and YouTube. We have made a concerted effort in the last 12-18 months to produce videos on maintenance tips and options information. We are also making available all of our manuals and parts lists for our machines through our website.	*
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?	We are hopeful that we will be successful in our bid for our third Sourcewell Contract. Since we are somewhat experienced in working with the people at Sourcewell we would hope that we could continue to get their assistance in letting our potential customers know that we have been awarded a Sourcewell Contract. As new means of technology become available to all of us we would look to Sourcewell to guide us along with their continually updated tools to get our name in front of our potential customers. We would continue to lead our sales approach with letting customers know that we have a Sourcewell Contract that can simplify their purchasing process.	*
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.	We are not fully integrated into an e-procurement process at this time. Given the current conditions of the world we are looking to do more and more things electronically provided that it improves efficiencies and is cost effective. We will continue to monitor these types of services and make the changes when the make sense to us as a company.	*

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.	The Zamboni Company continues to innovate by using current technology to provide tools for our customers to learn about proper operation and maintenance. These videos are available through our website to all of our machine owners. We are constantly searching for new topics that will benefit our customers to better operate our machines and to aid in longer life of the equipment. On site training is provided, the cost will be determined by the scope and required time on site. For machines located within a distributor territory a 4 hour version of this training would be provided at NC. If a longer or more extensive session is required costs would be negotiated.	*
37	Describe any technological advances that your proposed products or services offer.	Zamboni built a custom web and mobile application called Zamboni Connect. It delivers data from sensors on the machines to any mobile or connected device. The Zamboni Connect System allows users to monitor consumption of resources and operator/machine performance as well as providing insight used for predictive maintenance. Zamboni has made all of its operating instructions, parts lists, safety information, training and tip videos and related materials available online at no cost for the customers. Create a simple login and download materials any time, from any mobile or wired device. We are using our podcasts and social media to provide customers with timely and important product information, safety updates and content designed to ensure the safe and proper operation of their Zamboni equipment and ultimately to deliver a better user experience.	*
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.	The Zamboni Company was the first to the marketplace with an electric ice resurfacer that was used in the 1960 Olympic Games in Squaw Valley CA. This innovation and green initiative continued with the first mass produced electric ice resurfacer (Zamboni 550) brought to the market in the 1980's. The Zamboni 552 was introduced in 1990 as the first electric ice resurfacer capable of handling a typical community rink schedule. Now over 30 years later we continue to innovate by having the first OEM Lithium Ion battery powered machine on the market with our Zamboni 450 as well as the LI package being available in the Zamboni 552. We also market our Fast Ice System which is a computer controlled water delivery system that controls the amount of water being applied to the surface to help reduce refrigeration costs. We also have available the Level Ice system which helps to control the the thickness, again reducing refrigeration costs.	*
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.	At this time other than the chargers that we are using along with our battery powered machines that meet the stringent California energy standards we are not aware of any other third party eco labels being assigned to our machines or their components.	*
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.	None at this time.	*
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?	The Zamboni Company is the original ice resurfacer to the ice rink industry. First to market and we are continually striving to find ways to enhance the product for our customers, whether it be with design changes, new features or functions or educational information to make it a better experience for our customers with our machines. Through our past Sourcewell contracts we have been able to streamline the purchase process for our customers and provide them with value pricing. We hope to be able to continue to do this with another contract as well as expand this innovative purchasing process through more sales into the Canadian marketplace.	*

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?	A copy of our Standard Warranty will be included in the document upload section of this RFP. Labor is not a typical component of our warranty. We refer to it as a common sense warranty. We are not going to cover labor for a burnt our headlight but will cover labor in most cases for major components on the machine.	*
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Our standard warranty period is 2 years or 2000 hours.	*
44	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	If the repair is covered under warranty these costs would be a part of that warranty as well.	*
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?	If the distance is too far to send one of our team members we will work with the customer to reimburse them for labor time or find an outside source that is agreeable to both sides. Ultimately it is the goal of Zamboni to get any problems resolved as expeditiously as possible.	*
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?	For simplicity reasons for our customers we in most cases will deal with our suppliers on warranty issues. There are some cases where our supplier will address a situation but we are kept in the loop from start to finish.	*
47	What are your proposed exchange and return programs and policies?	If there is a defective part the component is issued an RMA # and the customer returns the part to us. This starts a record of the component from start to finish of the return and credit if issued. The part in question is sent to our supplier and once a determination has been made as to the cause of the failure the situation is brought to a resolution with the customer.	*
48	Describe any service contract options for the items included in your proposal.	Service contracts may be available from our dealers but it is not something that we offer directly.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
49	What are your payment terms (e.g., net 10, net 30)?	Our standard payment terms on Municipal, Educational or Not for Profits is Net 30 days from the date of the invoice.	*
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?	We do not offer leasing in house but have been very successful with offering a lease option through NCL Government Capital which also has a Sourcewell Contract. The synergy is helpful as the customer can work with both of us using Sourcewell Contracts	*
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.	Having a Sourcewell Contract has really simplified the purchase process for our customers for the past 8 years. We send out a proposal to the prospective customer and they advise what options they do or do not want on their machine. We revise the proposal to the spec that they want the machine to be, add a line item for the Sourcewell discount, add a line item for a trade in if they have one, a line item for freight and provide a total. They are then able to issue their P.O. or some sort of order confirmation and the process is complete. We utilize our production schedule to double and triple check when doing our sales report to Sourcewell. As we are not selling thousands of machines yearly the process is very reliable to make sure that we report all sales purchased under the Sourcewell contract. We have a process worked out with our dealers where we submit all of the sales information to Sourcewell so that nothing is left to chance. We actively work with them to make sure that they understand the benefits and the ease of the sale process when using the Sourcewell Contract.	*
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?	At this time we do not accept P-Card payment process.	*

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.	Enclosed with our proposal is an Excel file that has individual spreadsheets for each of our models being proposed as well as accessories that we produce or offer for sale. We offer a 3% discount on all machines, options and accessories to any prospective Sourcewell customer. All pricing is in US $$	*
54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	We are proposing a minimum 3% discount off of the list price that is submitted in our pricing file. All pricing is in US$$	*
55	Describe any quantity or volume discounts or rebate programs that you offer.	At this time we do not offer quantity discounts, volume discounts or a rebate program.	*
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.	We do not offer our machines or the options at a "at cost" or cost plus percentage basis.	*
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.	Freight is an additional cost that is not included in our pricing as it will vary depending on where the customer is located, the type of machine being shipped as well as the prevailing shipping costs at the time of the shipment of the machine. Basic training on the machine is provided if requested at no additional cost to the customer. If more extensive training is requested a price would be negotiated based on the location and timing. All of this would be done by Zamboni personnel or one of our distributors/dealers.	*
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.	A quote from a carrier is obtained when the proposal is provided to the customer. We secure the machine in a trailer and the machine is shipped to the customer if the sale is not through a dealer. In some cases it goes to one of our service providers who would then arrange final delivery to the customer. If the customer requests an onsite review of the machine this is offered at no charge subject to being able to coordinate a visit that works for both parties.	*
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	At this time there are no ice rinks that qualify for the Sourcewell program in Hawaii. For Alaska we utilize Lynden Freight as they are the primary resource for shipments into Alaska. For Canada all shipments would be handled the the dealer for the province who would arrange for final delivery to the customer.	*
60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Something of this nature would be entirely dependent on what the customers requirements are. As our machines are large in size the delivery process is typically well prepared for on both ends prior to shipment of the machine so that a customer does not have to say "now what do we do with this?"	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments	
61	d. other than what the Proposer typically offers (please describe).	The discounted pricing that we offer to customers through the Sourcewell Contract provides lower pricing than what would be quoted to a non Sourcewell Contract customer purchase.	

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.	We utilize our production schedule to track sales that our through the Sourcewell Contract pricing. There is also a line item on the sales order that reflects this discount. The schedule is reviewed quarterly to double check that all sales under the contract are recorded and reported to Sourcewell.	*
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.)	Under our last 2 contracts we have been paying a 1.5% administrative fee for all purchases under this contract. We continue to expand our reach with sales through the Sourcewell Contract. We anticipate this to only grow at a much faster rate now that we have expanded this program into our Canadian marketplace. We feel that if we are awarded another contract that we could see growth in the 25-30% range in the first year alone. As the world has changed dramatically in the last 8 months and we are not sure how much impact COVID will have on our industry we respectfully request that our administrative fee be kept at 1.5% of the purchase price of each unit sold.	*

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.	We offer a full array of ice resurfacing machines from our Zamboni 100 a small tractor pulled unit all the way up to our Olympic Oval and large capacity machine the 700. We have time saving options as well as unique features whose design is to make the job of maintaining an ice surface easier for the rink personnel. We have properly sized machine for most every need along with ice edgers so that our customers can get everything that they need to keep their ice surface smooth as a sheet of glass.	*
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	We feel that we fit comfortably within this contract category that has been refined since the last RFP that we responded to.	*

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	Ice resurfacers and edgers	(•) Yes ( ) No	A full line of ice resurfacers and ice edgers and related components	*
67	Dasher boards and rink dividers	( ) Yes (•) No	No	*
68	Ice rink and arena equipment and supplies	(•) Yes ( ) No	Ice resurfacers, edgers and related components	*
69	Ice rink and arena structural or mechanical equipment (HVAC, etc.)	( ) Yes (•) No	No	*
70	Ice rink and arena related services	( ) Yes (•) No	No	*

Table 15: Industry Specific Questions

Line Item	Question	Response *	
71	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.	As a large percentage of our customers are Sourcewell eligible there are very few that do not go the route of using the Sourcewell Contract. The goal would be to continue to grow the sales volume with a large percentage of that growth expected to come from the Canadian marketplace. If we can add overall sales and they come because of the Sourcewell Contract, we view that as being a successful partnership.	*
72	Describe how your proposed equipment, products, or services impact the indoor air quality of an ice rink or arena.	The Zamboni Company continues to lead the ice rink industry with products designed to reduce or eliminate emissions that are put out by our machines. Our fuel powered machines utilize fuel efficient 4 cylinder engines that produce the least amount of emissions of any fuel powered ice resurfacer on the market. The Zamboni 552 celebrated its 30th year of production this year and we became the first OEM manufacturer of ice resurfacers to bring a Lithium Ion battery option to the market with it being available in the Zamboni 450 and Zamboni 552. With a relatively new feature called Zamboni Connect our customers are able to monitor their machine from outside their building. This gives them freedom from their workplace while still being able to monitor the machine's operation and performance. We continue the drive to Net Zero ice maintenance and we believe that our line of electric ice resurfacers and battery edger option provide our customers with many choices to achieve this.	*
73	Describe how your proposed equipment, products, or services comply with any applicable environmental regulations.	The engines that we use in our fuel powered machines meet all of the current EPA/CARB standards. We continue to educate our customers on the benefits of electric machines and expect at some point down the road that all ice resurfacers will be electric. Until then we will continue to find ways to make our fuel powered machines which are available in gas, LPG or CNG to be as clean as possible. With the certified engines that we are currently using the emission difference between gas and LPG or CNG is undetectable.	*
74	Describe your product attributes and advancements in regard to product safety, longevity and lifecycle costs.	The Zamboni Company was the first to bring an ice resurfacer to the marketplace over 70 years ago. We have and continue to refine the machine to make it safer and easier for our customers to not only operate but maintain for the longest possible life. We are proud of the fact that our machines provide a longer life span than any competitor on the market. We have some machines that were built in the 1950's that are still operational today. Customers in Canada have done research in the past to determine that Zamboni machines cost less to maintain over their operational life than competitors machines. When all facts were considered it was determined that Zamboni machines had a far lower operational cost as well due to a smaller more fuel efficient engine.	*

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 75. **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 - WMS Ref Letter.pdf - Tuesday December 01, 2020 14:29:18
- Marketing Plan/Samples - Sourcwell RFP Docs.zip - Wednesday December 02, 2020 12:03:06
- WMBE/MBE/SBE or Related Certificates (optional)
- Warranty Information - Warranty SW.pdf - Tuesday December 01, 2020 14:37:56
- Pricing - Sourcewell Price List for RFP.pdf - Tuesday December 01, 2020 18:27:43
- Additional Document (optional)

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://sam.gov/SAM/; 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. - Doug Peters, Regional Sales Manager, Zamboni Company USA

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_1_Ice Rink and Arena Equipment with Related Supplies and Services_RFP_120320 Mon November 23 2020 10:19 AM	☑	1

DocuSign Envelope ID: 1DE10E57-16BF-41A6-95C8-B0406A95BAD5

AMENDMENT #1
TO
CONTRACT #120320-FZC

THIS AMENDMENT is by and between **Sourcewell** and **Zamboni Company USA, Inc. (for itself and for affiliate, Frank J. Zamboni & Co. Inc.)** (collectively, Vendor).

Sourcewell awarded a contract to Vendor to provide Ice Rink and Arena Equipment with Related Supplies and Services to Sourcewell and its Participating Entities, effective January 6, 2021, through January 8, 2025 (Contract).

The parties wish to amend the following terms within the Contract.

1. This Amendment is effective upon the date of the last signature below.

2. Section 18. Insurance–Subsection A. Requirements– Item 5. Network Security and Privacy Liability Insurance, of the Original Agreement, is deleted in its entirety.

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz, Chief Procurement Officer

Date: 6/14/2021 | 8:32 PM CDT

Approved:

DocuSigned by:
By:
7E42B8F817A64CC...
Chad Coudette, Executive Director/CEO

Date: 6/14/2021 | 8:34 PM CDT

Zamboni Company USA, Inc.

DocuSigned by:
By: Doug Peters
8F993CFC0A14412...
Doug Peters

Title: Regional Sales Manager

Date: 6/14/2021 | 3:11 PM PDT

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Wesley Welch, Planner

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Final Plat: TLC PC Land Investors, LLC requests Final Plat approval for Ghost Tree at Pine Canyon (PZ-21-00155-08) located at 3201 South Clubhouse Circle, a 12-unit single-family home subdivision on 7.87 acres in the Single-Family Residential (R1) Zone.

STAFF RECOMMENDED ACTION:

Approve the Final Plat and authorize the Mayor to sign the Final Plat and City/Subdivider Agreement when notified by staff that all documents are ready for signature and recording.

Executive Summary:

TLC PC Land Investors, LLC requests Final Plat approval for Ghost Tree II, located at 3201 S Clubhouse Circle, a single-family subdivision of 12 lots on 7.87 acres in the Single-Family Residential (R1) Zone. This site has a Resource Protection Overlay and is currently vacant. It is located within the Pine Canyon development site.

Financial Impact:

There are no financial impacts associated with this Final Plat.

Policy Impact:

There are no policy impacts affiliated with this Final Plat.

Previous Council Decision or Community Discussion:

The final plat was approved by Council on January 3, 2023. However, there were many small errors in the plat and the Coconino County Recorder's office would not record the document with a list of corrections. This plat has corrected those issues and is now going through the process once again to receive approval.

The Preliminary Plat for the updated version of this plat was approved by City Council on June 18, 2024.

Options and Alternatives to Recommended Action:

1. Approve the Final Plat with no conditions, as recommended by city staff.
2. Approve the Final Plat with conditions.
3. Deny the Final Plat based on non-compliance with the Zoning Code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure

Background and History:

TLC PC Land Investors, LLC is seeking Preliminary Plat approval for a 12-lot single-family residential subdivision within the larger Pine Canyon development. Lot sizes range from 9,342 square feet to 21,861 square feet. The subdivision is one of the last undeveloped areas in Pine Canyon and is located between existing golf course and residential uses. The final plat was approved by Council on January 3, 2023. However, there were many small errors in the plat and the Coconino County Recorder's office would not record the document with a list of corrections. This plat has corrected those issues and is now going through

the process once again to receive approval.

Since the first approval of the final plat, the applicant has identified an issue with meeting the originally proposed building envelopes. Due to the topography of the site, the side-loaded garage design (which helped to accommodate building envelopes that met resource protection standards) has been changed in order to minimize the length and slope of the driveways. The new building envelopes, slightly modified to make room for front-loaded garages, require a reduction in the required amount of preserved slope. Pursuant to Section 10-50.90.110(B), the Planning and Zoning Commission may allow a modification to the required resources.

The Planning & Zoning Commission approved a reduction of the amount of preserved slope and recommended approval of the Preliminary Plat by the City Council on May 8, 2024. City Council approved the Preliminary Plat on June 18, 2024.

Connection to PBB Priorities and Objectives:
Livable Community - Provide amenities and activities that support a healthy lifestyle
Livable Community - Actively support attainable and affordable housing through City projects and opportunities with developers.
Livable Community - Achieve a well-maintained community through comprehensive & equitable code compliance, & development that is compatible with community values.
Environmental Stewardship - Actively manage and protect all environmental and natural resources.

Connection to Regional Plan:
Goal E&C.7. Give special consideration to environmentally sensitive lands in the development design and review process.
Policy E&C7.2. Favor the use of available mechanisms at the City and County level for the preservation of environmentally sensitive lands, including but not limited to public acquisition, conservation easements, transfer of development rights, or clustered development with open space designations.
Goal CC.1 Reflect and respect the region's natural setting and dramatic views in the built environment.
Goal CC.3 Preserve, restore, enhance, and reflect the design traditions of Flagstaff in all public and private development efforts.
Goal LU.3 Continue to enhance the region's unique sense of place within the urban, suburban, and rural context.
Goal LU.5 Encourage compact development principles to achieve efficiencies and open space preservation.
Goal NH.1. Foster and maintain healthy and diverse urban, suburban, and rural neighborhoods in the Flagstaff region.

Connection to Carbon Neutrality Plan:
HF-1 Protect existing forests, resources, and meaningful open spaces.

Connection to 10-Year Housing Plan:
N/A

Attachments: Ghost Tree II Amended FInal Plat
City/Subdivider Agreement

PLOTTED: Jun 11, 2024--9:50am

AMENDED FINAL PLAT FOR

GHOST TREE AT PINE CANYON

AS AMENDED FROM DOCUMENT #3968489, C.C.O.R.

3201 SOUTH CLUBHOUSE CIRCLE, APN 105-10-206

BEING A RESUBDIVISION TRACT 23 OF THE ESTATES AT PINE CANYON UNIT 1, CASE 8 MAP 92C, C.C.O.R.
AND BEING A SUBDIVISION PORTION OF PARCEL 2A OF THAT SPECIAL WARRANTY DEED
RECORDED AT DOCUMENT #3644276, C.C.O.R.
LOCATED IN SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST,
GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA

DEDICATIONS TO CITY

STATE OF ARIZONA

COUNTY OF COCONINO

KNOW ALL PERSONS BY THESE PRESENTS: THAT TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY,AS OWNER, HAS SUBDIVIDED UNDER THE NAME,"GHOST TREE AT PINE CANYON" A SUBDIVISION LOCATED IN TRACT 23 OF THE ESTATES AT PINE CANYON - UNIT ONE BEING A SUBDIVISION LOCATED IN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AS FOR THE PLAT OF "GHOST TREE AT PINE CANYON" A SUBDIVISION LOCATED IN TRACT 23 OF THE ESTATES AT PINE CANYON - UNIT ONE, AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES DIMENSIONS OF EACH LOT, TRACT, STREET (PRIVATE), AND EASEMENT CONSTITUTING THE SAME, AND THAT EACH LOT, TRACT, STREET, AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

SAID SUBDIVISION BEING TRACT 23, "THE ESTATES AT PINE CANYON - UNIT 1" AS RECORDED AT CASE 8 OF MAPS, PAGE 92, COCONINO COUNTY OFFICIAL RECORDS.

EASEMENTS DEDICATED

GRANTOR HEREBY DEDICATES TO THE CITY OF FLAGSTAFF, ARIZONA, AN ARIZONA MUNICIPAL CORPORATION, PERPETUAL NON-EXCLUSIVE EASEMENTS OVER, UNDER, UPON, AND ACROSS ALL EASEMENT AREAS DESIGNATED ON THE PLAT FOR THE EASEMENT PURPOSES, INCLUDING ANY RELATED FACILITIES AND EQUIPMENT AS FOLLOWS:

EMERGENCY AND SERVICE VEHICLE ACCESS EASEMENT OVER, ABOVE, UNDER ACROSS AND THROUGH TRACT "A" (ESVAE) FOR PUBLIC USE, INCLUDING WITHOUT LIMITATION, THE RIGHT OF ACCESS FOR EMERGENCY, POLICE, FIRE, PUBLIC SAFETY, REFUSE COLLECTION, UTILITY, AND OTHER SERVICE PERSONNEL AND VEHICLES. GRANTOR SHALL CONSTRUCT AND MAINTAIN THE ESVAE IN ACCORDANCE WITH ENGINEERING STANDARDS FOR HEAVY EQUIPMENT IN COMPLIANCE WITH THE FLAGSTAFF CITY CODE.

PUBLIC UTILITY EASEMENT OVER, ABOVE, UNDER ACROSS AND THROUGH TRACT "A" (PUE), FOR PUBLIC USE, FOR UTILITY PURPOSES, INCLUDING WITHOUT LIMITATION, CONSTRUCTION, OPERATION, MAINTENANCE, MODIFICATION, REPLACEMENT AND REPAIR OF ELECTRICITY, ENERGY, GAS, WATER, SEWER, PUBLIC STORM WATER SYSTEM, TELECOMMUNICATIONS, INTERNET SERVICES, CABLE TELEVISION, AND OTHER UTILITIES.

WATERLINE EASEMENT (WE) FOR PUBLIC WATER SYSTEMS, INCLUDING WITHOUT LIMITATION, CONSTRUCTION, OPERATION, MAINTENANCE, MODIFICATION, REPLACEMENT AND REPAIR OF WATER PIPELINES, MONITORING DEVICES, MANHOLES, VALVES, ACCESS VAULTS, AND SIMILAR FACILITIES.

SEWER LINE EASEMENT (SLE), FOR PUBLIC SEWER SYSTEMS, INCLUDING WITHOUT LIMITATION, CONSTRUCTION, OPERATION, MAINTENANCE, MODIFICATION, REPLACEMENT AND REPAIR OF UNDERGROUND SEWER PIPELINES, MONITORING DEVICES, PIPES, MANHOLES, VALVES, AND ACCESS VAULTS.

GRANTOR SHALL NOT ALLOW USE OF THE EASEMENT AREA IN A MANNER THAT INTERFERES WITH EASEMENT;

a. GRANTOR SHALL MAINTAIN EASEMENT AREAS FREE AND CLEAR OF VEGETATION OR OBSTRUCTIONS THAT INTERFERE WITH THE EASEMENT, PER THE FLAGSTAFF CITY CODE AS AMENDED; AND
b. GRANTEE MAY MAINTAIN VEGETATION AND REMOVE OBSTRUCTIONS THAT INTERFERE WITH THE EASEMENT;
c. IN THE EVENT THE GRANTEE HAS NOTIFIED GRANTOR AND PROVIDED REASONABLE OPPORTUNITY TO MAINTAIN THE SLOPE, VEGETATION AND/OR REMOVE OBSTRUCTIONS THAT INTERFERE WITH THE EASEMENT, GRANTEE MAY ISSUE AN ASSESSMENT AGAINST GRANTOR TO RECOVER THE GRANTEE'S ACTUAL, REASONABLE MAINTENANCE COSTS AND RECORD IT AS A LIEN AGAINST GRANTOR'S PROPERTY UNTIL THE ASSESSMENT AND ANY STATUTORY INTEREST IS PAID;
d. GRANTEE SHALL HAVE A LIMITED, TEMPORARY RIGHT OF ACCESS ACROSS GRANTOR'S ADJACENT PROPERTY FOR EASEMENT PURPOSES IF ACCESS CANNOT BE REASONABLY ACHIEVED BY OTHER MEANS.

BINDING EFFECT

THE EASEMENTS GRANTED WITHIN THIS DEDICATION ARE PERMANENT AND PERPETUAL AND SHALL RUN WITH THE LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL OR LOT THEREOF.

IMPROVEMENTS

GRANTOR HEREBY DEDICATES TO THE CITY OF FLAGSTAFF ALL IMPROVEMENTS INSTALLED OR CONSTRUCTED BY GRANTOR FOR CITY UTILITIES WITHIN THE EASEMENT AREAS, AND SUCH DEDICATION SHALL BE EFFECTIVE WHEN FORMALLY ACCEPTED BY THE CITY ENGINEER (THE "ACCEPTANCE DATE.").

NOW, THEREFORE, IN WITNESS WHEREOF, GRANTOR HAS HEREUNTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 20__.

TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

IN WITNESS WHEREOF, GRANTOR(S) HAS/HAVE HEREUNTO CAUSED HIS/HER/THEIR NAME(S) TO BE SIGNED, THIS _____ DAY OF _____, 20__.

TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY ("GRANTOR")

BY: _____

DATE: _____

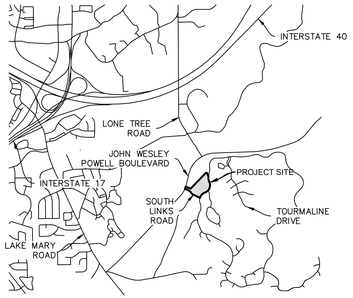
STATE OF ARIZONA)
) SS
COUNTY OF COCONINO)
ON THIS_____DAY OF _____, 20__, BEFORE ME PERSONALLY
APPEARED_____, THE_____, AN_____
FOR AND ON BEHALF THEREOF, WHOSE IDENTITY WAS PROVEN TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHO HE OR SHE CLAIM TO BE, AND ACKNOWLEDGED THAT HE OR SHE SIGNED THE ABOVE DOCUMENT

_____
NOTARY PUBLIC

PLAT NOTES

AIRPORT OVERFLIGHT AREA. THE PROPERTY IS LOCATED WITHIN AIRCRAFT OVERFLIGHT AREA AS SHOWN IN THE AIRPORT MASTER PLAN. THIS PROPERTY MAY BE AFFECTED BY NOISE OR EMISSIONS FROM AIRCRAFT.

RESOURCE PROTECTION. A BUILDING ENVELOPE FOR EACH LOT IS SHOWN AND PLATTED HEREON FOR THE PURPOSE OF MAINTAINING RESOURCES IN ACCORDANCE WITH THE ZONING CODE'S RESOURCE PROTECTION OVERLAY DESIGNATION. ALL DEVELOPMENT ON A LOT SHALL OCCUR WITHIN THE BUILDING ENVELOPE, EXCEPT THAT ACCESSORY STRUCTURES THAT COMPLY WITH THE REQUIREMENTS OF THE ZONING CODE MAY BE DEVELOPED OUTSIDE OF THE BUILDING ENVELOPE, PROVIDED THAT NO RESOURCES ARE REMOVED OR ENCROACHED UPON. A MODIFICATION TO A LOT'S BUILDING ENVELOPE THAT COMPLIES WITH THE ZONING CODE MAY BE APPROVED BY THE CITY OF FLAGSTAFF'S PLANNING DIRECTOR AND RECORDED IN COCONINO COUNTY, ARIZONA. ALL APPLICABLE PROVISIONS OF THE ZONING CODE, AS AMENDED, SHALL APPLY.



VICINITY MAP

SCALE: 1" = 1/2 MILE

CITY OF FLAGSTAFF CERTIFICATION

IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR THE RECORD BY THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA ON THE_____ DAY OF _____, 20___.

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR THE RECORD BY THE INTER-DIVISION STAFF REVIEW OF THE CITY OF FLAGSTAFF, ARIZONA ON THE DAY OF _____, 20___.

BY: _____
CITY ENGINEER

BY: _____
PLANNING DIRECTOR

UTILITY COMPANY APPROVALS

ARIZONA PUBLIC SERVICE COMPANY _____ DATE

UNISOURCE ENERGY SERVICES _____ DATE

CENTURYLINK _____ DATE

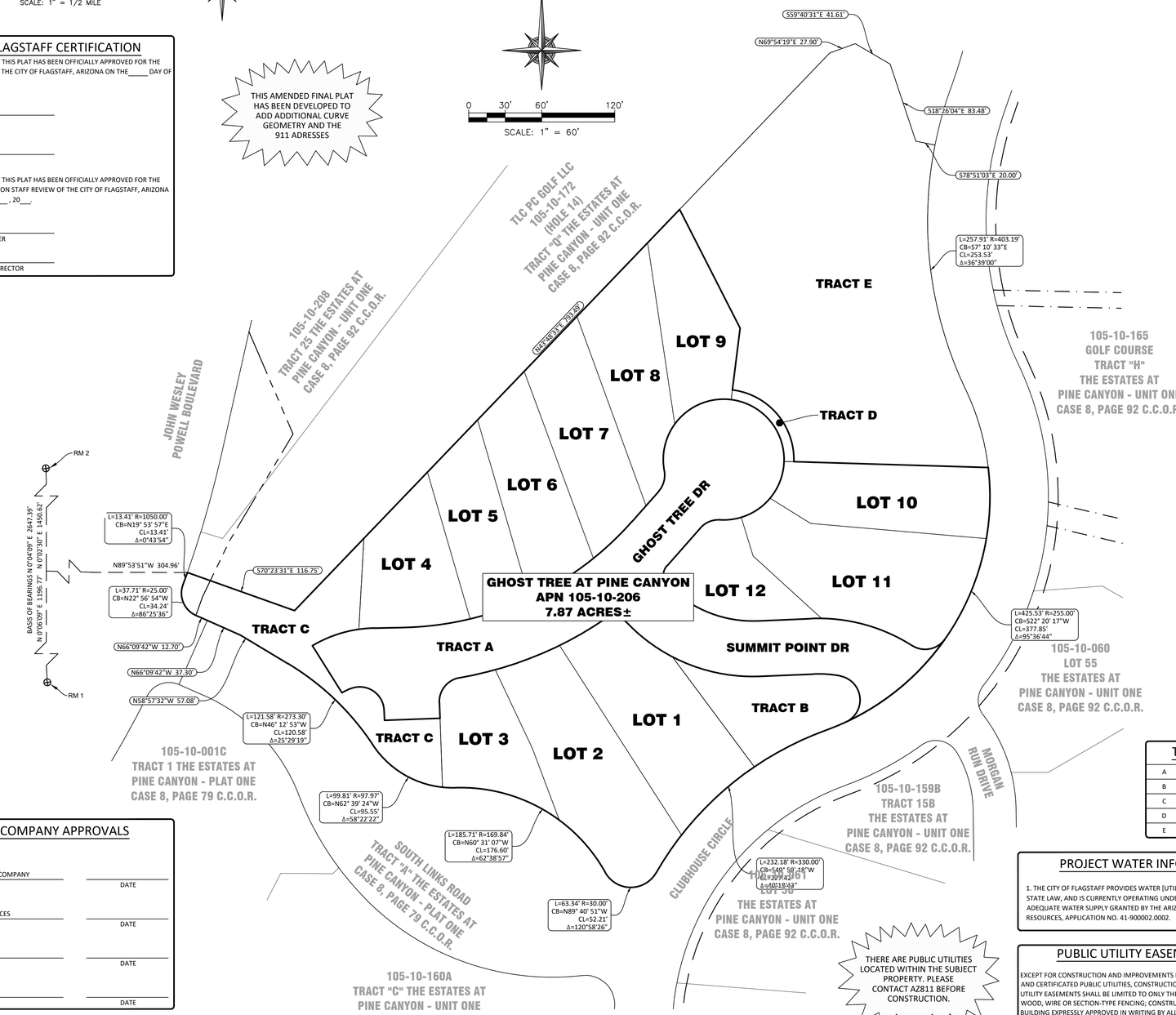
SPARKLIGHT _____ DATE

N

0 30' 60' 120'

SCALE: 1" = 60'

THIS AMENDED FINAL PLAT HAS BEEN DEVELOPED TO ADD ADDITIONAL CURVE GEOMETRY AND THE 911 ADRESSES



THERE ARE PUBLIC UTILITIES LOCATED WITHIN THE SUBJECT PROPERTY. PLEASE CONTACT AZ811 BEFORE CONSTRUCTION.

BASIS OF BEARINGS & BENCHMARKS

THE BASIS OF BEARING FOR THIS SURVEY IS ON THE CITY OF FLAGSTAFF LOCAL DATUM AND THE NAVD 88 VERTICAL DATUM AND IS N 00° 04' 09" EAST 2647.39' ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 34 BETWEEN THE WEST QUARTER CORNER (RM 1) MARKED BY A BLM BRASS CAP DATED 1965 AND THE NORTHWEST CORNER (RM 2)MARKED BY A BLM BRASS CAP DATED 1965.

REFERENCE MARK	NORTHING	EASTING	ELEVATION(88)
RM 1	38853.27	31698.75	6991.57
RM 2	41500.83	31702.05	6927.21

THE COORDINATE SYSTEM FOR THIS PROJECT IS THE CITY OF FLAGSTAFF LOCAL COORDINATE SYSTEM MODIFIED FROM ARIZONA STATE PLANE CENTRAL ZONE. THE PROJECT IS DESIGNED ON THE NAVD 88 ELEVATION.

SURVEYOR'S CERTIFICATE:

I, THOMAS A. LIUZZO, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD LICENSE NUMBER 33861 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF ARIZONA, I FURTHER CERTIFY THAT I HAVE PREPARED THIS PLAT FROM THE ORIGINAL FIELD NOTES MADE DURING A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND THAT THIS PLAT IS A TRUE AND ACCURATE MAP OF THE LAND SURVEYED AND WAS PERFORMED IN ACCORDANCE WITH THE ARIZONA MINIMUM STANDARDS FOR LAND SURVEY EFFECTIVE FEBRUARY 2002.

DEDICATIONS BY THE DEVELOPER

STATE OF ARIZONA

COUNTY OF COCONINO

KNOW ALL PERSONS BY THESE PRESENTS: THAT TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY,AS OWNER, HAS SUBDIVIDED UNDER THE NAME, "AN AMENDED FINAL PLAT FOR GHOST TREE AT PINE CANYON" A SUBDIVISION LOCATED IN TRACT 23 OF THE ESTATES AT PINE CANYON - UNIT ONE BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AS FOR THE PLAT OF "GHOST TREE AT PINE CANYON," AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES DIMENSIONS OF EACH LOT, TRACT, STREET (PRIVATE), AND EASEMENT CONSTITUTES THE SAME, AND THAT EACH LOT, TRACT, STREET, AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

SAID SUBDIVISION BEING TRACT 23, "THE ESTATES AT PINE CANYON - UNIT ONE" AS RECORDED AT CASE 8 OF MAPS, PAGE 92, COCONINO COUNTY OFFICIAL RECORDS.

IN ADDITION TO THE DEDICATIONS TO THE CITY OF FLAGSTAFF, ARIZONA, THE GRANTOR HEREBY DEDICATES THE FOLLOWING:

1. TRACT "A" IS HEREBY DEDICATED TO THE THE HOMEOWNER'S ASSOCIATION FOR USE AS A PRIVATE ROAD FOR INGRESS AND EGRESS, DRAINAGE, UTILITIES AND LANDSCAPING.
2. TRACT "B" IS HEREBY DEDICATED TO THE HOMEOWNER'S ASSOCIATION FOR OPEN SPACE & DRAINAGE.
3. TRACT "C" IS HEREBY DEDICATED TO THE HOMEOWNER'S ASSOCIATION FOR OPEN SPACE, DRAINAGE AND GOLF COURSE USE.
4. TRACT "D" ARE HEREBY DEDICATED THE HOMEOWNER'S ASSOCIATION FOR SLOPE EASEMENT, NON VEHICULAR ACCESS, OPEN SPACE & DRAINAGE.
5. TRACT "E" IS RESERVED BY THE DEVELOPER FOR FUTURE DEVELOPMENT.
6. THE EASEMENTS AS SHOWN HEREON ARE FOR THE USES DESCRIBED FOR EACH, RESPECTIVELY, AND ARE DETAILED AS FOLLOWS:
   A. EASEMENT #1 IS FOR GOLF COURSE USE.
   B. EASEMENT 2A AND 2B ARE FOR PRIVATE DRAINAGE.
   C. EASEMENT SG1 & SG2 ARE RESERVED FOR SIGNAGE (SG).
7. ALL LOTS WITHIN THIS SUBDIVISION REQUIRES THE INSTALLATION OF INDIVIDUAL PRIVATE GRINDER PUMPS (E/ONE EXTREME SERIES OR APPROVED EQUAL). ALL LOT OWNERS ARE RESPONSIBLE FOR INSTALLING THEIR INDIVIDUAL PRIVATE GRINDER PUMPS TO THE MANUFACTURERS SPECIFICATIONS. THESE INDIVIDUAL PRIVATE GRINDER PUMPS WILL CONVEY SEWAGE THROUGH A PRIVATE LOW PRESSURE SERVICE LINE INSTALLED BY EACH INDIVIDUAL LOT OWNER AND CONNECT TO THE PUBLIC SEWER SERVICE STUB PLACED AT EACH INDIVIDUAL LOT.
8. THIS SUBDIVISION SHALL BE SUBJECT TO AND TOGETHER WITH ALL DECLARATIONS, COVENANTS, RESERVATIONS & RESTRICTIONS WITHIN THE EXISTING DOCUMENTS FOR THE SUBJECT PROPERTY ON FILE WITHIN THE COCONINO COUNTY OFFICIAL RECORDS. THE DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR "THE ESTATES AT PINE CANYON ARE RECORDED AT DOCUMENT NUMBER 3171314, COCONINO COUNTY OFFICIAL RECORDS, DATED NOVEMBER 22, 2002, AND AT DOCUMENT NUMBER 3216111, COCONINO COUNTY OFFICIAL RECORDS, DATED AUGUST 8, 2003, WHICH SAID SUBDIVISION SHOWN AND PLATTED HEREIN IS A PART OF THE PARCEL(S) REFERRED TO IN THE RECITALS THEREOF, AND THERE MAY BE HEREAFTER PUBLISHED DESIGN GUIDELINES THAT MAY BE OR MAY NOT BE RECORDED THAT SAID LOTS WOULD BE SUBJECT TO AND AMENDMENTS TO THE DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS AND MAY INCLUDE THE GRANT OF EASEMENT AND OTHER RIGHTS FOR THE PURPOSE OF REGULATING ANY LOTS OR TRACTS WITHIN THE ABOVE DESCRIBED PREMISES.

NOW, THEREFORE, IN WITNESS WHEREOF, GRANTOR HAS HEREUNTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 20__.

TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

IN WITNESS WHEREOF, GRANTOR(S) HAS/HAVE HEREUNTO CAUSED HIS/HER/THEIR NAME(S) TO BE SIGNED, THIS_____ DAY OF _____, 20__.

TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY ("GRANTOR")

BY: _____

DATE: _____

STATE OF ARIZONA)
) SS
COUNTY OF COCONINO)
ON THIS_____DAY OF _____, 20__, BEFORE ME PERSONALLY
APPEARED_____, THE_____, AN_____
FOR AND ON BEHALF THEREOF, WHOSE IDENTITY WAS PROVEN TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHO HE OR SHE CLAIM TO BE, AND ACKNOWLEDGED THAT HE OR SHE SIGNED THE ABOVE DOCUMENT.

_____
NOTARY PUBLIC

SHEET INDEX

1	SITE OVERVIEW
2	LOTTING PLAN
3	BUILDING ENVELOPES PLAN
4	BUILDING ENVELOPE GEOMETRIC TABLES

TRACT AREAS

A	56,806.16 S.F. OR 1.30 ACRES±
B	10,541.32 S.F. OR 0.24 ACRES±
C	16302.25 S.F. OR 0.37 ACRES±
D	988.93 S.F. OR 0.02 ACRES±
E	83947.89 S.F. OR 1.93 ACRES±

PROJECT WATER INFORMATION

1. THE CITY OF FLAGSTAFF PROVIDES WATER [UTILITY] SERVICE PURSUANT TO STATE LAW, AND IS CURRENTLY OPERATING UNDER A DESIGNATION OF ADEQUATE WATER SUPPLY GRANTED BY THE ARIZONA DEPARTMENT OF WATER RESOURCES, APPLICATION NO. 41-900002.0002.

PUBLIC UTILITY EASEMENT NOTE

EXCEPT FOR CONSTRUCTION AND IMPROVEMENTS BY GOVERNMENTAL ENTITIES AND CERTIFICATED PUBLIC UTILITIES, CONSTRUCTION AND IMPROVEMENTS WITHIN UTILITY EASEMENTS SHALL BE LIMITED TO ONLY THE FOLLOWING: REMOVABLE WOOD, WIRE OR SECTION-TYPE FENCING; CONSTRUCTION, STRUCTURES OR BUILDING EXPRESSLY APPROVED IN WRITING BY ALL PUBLIC UTILITIES WHICH USE OR SHALL USE THE UTILITY EASEMENT.

PROJECT INFORMATION

CLIENT:
TLC PC LAND INVESTORS, LLC
8601 NORTH SCOTTSDALE ROAD SUITE 335
SCOTTSDALE, ARIZONA 85253
(602) 616-6828

ENGINEER / SURVEYOR:
GRANITE BASIN ENGINEERING, INC.
1981 COMMERCE CENTER CIRCLE, SUITE B
PRESCOTT, ARIZONA 86301
(928) 717-0171
THOMAS A. LIUZZO, RLS #33861

SITE DATA:
ASSESSOR PARCEL NUMBER(S)
105-10-206
3201 SOUTH CLUBHOUSE CIRCLE
FLAGSTAFF, AZ 86005
7.87 AC ±
12 LOTS
1.52 UNITS PER ACRE

ZONING NOTE:
CITY OF FLAGSTAFF ZONING INFORMATION
R1; SINGLE FAMILY RESIDENTIAL
(SEE BUILDING ENVELOPE DATA, SHEETS 3 & 4)

Call at least two full working days before you begin excavation.
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602) 263-1100

REVISIONS

NUM.	DESCRIPTION	DATE	BY

☐ FOR REVIEW ONLY	☐ FOR BID ONLY	☒ FOR APPROVAL ONLY	☒ FOR RECORDING ONLY	☐ FOR CONSTRUCTION ONLY	☐ FOR AS-BUILT ONLY

GRANITE BASIN ENGINEERING, INC.
1981 COMMERCE CENTER CIRCLE, SUITE B PRESCOTT, ARIZONA 86301
PH: (928) 717-0171 FAX: (928) 717-0181
WWW.GRANITEBASINENGINEERING.COM

TLC PC LAND INVESTORS, LLC
8601 NORTH SCOTTSDALE ROAD, SUITE 335
SCOTTSDALE, ARIZONA 85253

AMENDED FINAL PALT FOR
GHOST TREE AT PINE CANYON
PARENT BOUNDARY PLAN AND SITE OVERVIEW



JOB:	19009
DATE:	06/11/2024
SCALE:	AS SHOWN
DRAWN:	TL/TRL
DESIGN:	TS
CHECKED:	TL

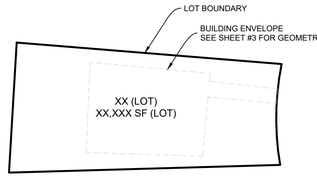
1

SHEET 1 OF 4

FILE: Z:\Projects\PINE CANYON\PROJECTS\19009 PC Trcet 23 GHOST TREE\DWG\FPLAT\AMENDED FPLAT 9-6-2023\19009-01-FPLAT-COVER.dwg <<C3D_Imperial>>

PLOTTED: Jun 11, 2024–9:50am

FILE: Z:\Projects\PINE CANYON\PROJECTS\19009 PC Tract 23 GHOST TREE\DWG\PLAT\AMENDED FPLAT 9-8-2023\19009-02-FPLAT-LOTS.dwg <<C3D_imperial>>



TYPICAL LOT DETAIL

NOT TO SCALE

AMENDED FINAL PLAT FOR

GHOST TREE AT PINE CANYON

AS AMENDED FROM DOCUMENT #3968489, C.C.O.R.

3201 SOUTH CLUBHOUSE CIRCLE, APN 105-10-206
BEING A RESUBDIVISION TRACT 23 OF THE ESTATES AT PINE CANYON UNIT 1, CASE 8 MAP 92C, C.C.O.R.
AND BEING A SUBDIVISION PORTION OF PARCEL 2A OF THAT SPECIAL WARRANTY DEED
RECORDED AT DOCUMENT #3644276, C.C.O.R.
LOCATED IN SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST,
GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA

THERE ARE PUBLIC UTILITIES LOCATED WITHIN THE SUBJECT PROPERTY. PLEASE CONTACT AZ811 BEFORE CONSTRUCTION.

N

0 25' 50' 100'

SCALE: 1" = 50'

LEGEND

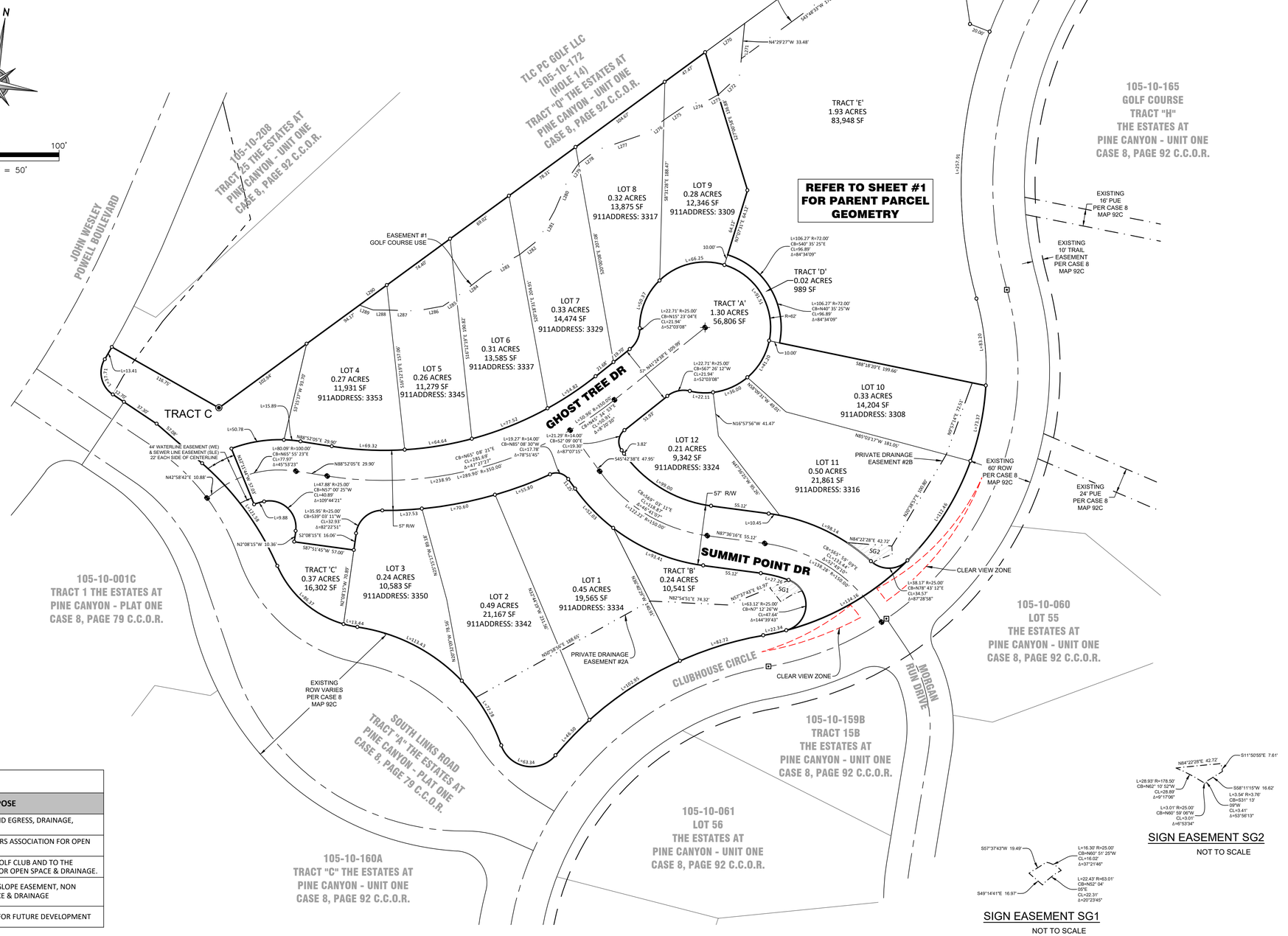
◉	FOUND 1/2" REBAR & CAP RLS 23372
⊕	BLM BRASS CAP DATED 1965
⊡	CENTERLINE MONUMENT 2" ALUMINUM CAP
○	PROPERTY CORNER TO BE SET 1/2" REBAR & CAP RLS 33861
⬢	CENTERLINE MONUMENT TO BE SET BRASS CAP WITH MARKINGS RLS 33861
S45°45'45"W 45.00'	PROPOSED LOT DATA BASED ON CALCULATIONS
45.00'	LINE LENGTH WHEN PARALLEL TO THE ROAD CENTERLINE
L=45.00'	ARC LENGTH WHEN PARALLEL TO THE ROAD CENTERLINE
S73°15'32"W 86.18'	PARENT PARCEL DATA BASED ON FIELD SURVEY
(S55°55'55"W 50.00')R	RECORD DATA; CASE 9 OF MAPS PAGE 28 OF C.C.O.R.
	DRAINAGE EASEMENT
	SLOPE EASEMENT
	SEWER EASEMENT
	TRAIL EASEMENT
	PROJECT BOUNDARY
	RIGHT-OF-WAY
	ADJACENT PARCELS
7000	EXISTING INDEX CONTOUR
	INTERMEDIATE CONTOUR
	BUILDING ENVELOPES
	CENTERLINE
	GOLF COURSE USE EASEMENT

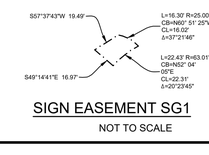
LOT SUMMARY

LOT #	AREA (SF)	AREA (AC)
389	19,565	0.45
390	21,167	0.49
391	10,583	0.24
392	11,931	0.27
393	11,279	0.26
394	13,585	0.31
395	14,474	0.33
396	13,875	0.32
397	12,346	0.28
398	14,204	0.33
399	21,861	0.50
400	9,342	0.21

TRACT SUMMARY

TRACT	AREA (SF)	AREA (AC)	PURPOSE
A	56,806	1.30	PRIVATE ROAD FOR INGRESS AND EGRESS, DRAINAGE, UTILITIES AND LANDSCAPING.
B	10,541	0.24	RESERVED TO THE HOMEOWNERS ASSOCIATION FOR OPEN SPACE & DRAINAGE
C	16,301	0.37	RESERVED FOR PINE CANYON GOLF CLUB AND TO THE HOMEOWNERS ASSOCIATION FOR OPEN SPACE & DRAINAGE.
D	989	0.02	RESERVED TO DEVELOPER FOR SLOPE EASEMENT, NON VEHICULAR ACCESS, OPEN SPACE & DRAINAGE
E	83,948	1.93	RESERVED TO THE DEVELOPER FOR FUTURE DEVELOPMENT





SIGN EASEMENT SG1

NOT TO SCALE

SIGN EASEMENT SG2

NOT TO SCALE

Call at least two full working days before you begin excavation
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602) 263-1100

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GRANITE BASIN ENGINEERING, INC.
1161 COMMERCE LN #104, PRESCOTT, ARIZONA 86301
PH: (928) 237-0371 FAX: (928) 237-0341
WWW.GRANITEBASINENGINEERING.COM

TLC PC LAND INVESTORS, LLC
8601 NORTH SCOTTSDALE ROAD, SUITE 335
SCOTTSDALE, ARIZONA 85253

AMENDED FINAL PLAT FOR
GHOST TREE AT PINE CANYON
LOTTING PLAN

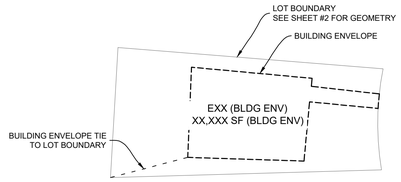
REGISTERED LAND SURVEYOR
33861
THOMAS A. LUCERO
ARIZONA, U.S.A.
6/11/24
Expires 6/30/2025

JOB:	19009
DATE:	06/11/2024
SCALE:	AS SHOWN
DRAWN:	TL/TRL
DESIGN:	TS
CHECKED:	TL

2

SHEET 2 OF 4

PLOTTED: Jun 11, 2024–9:45am



TYPICAL BUILDING ENVELOPE DETAIL

NOT TO SCALE

AMENDED FINAL PLAT FOR

GHOST TREE AT PINE CANYON

AS AMENDED FROM DOCUMENT #3968489, C.C.O.R.

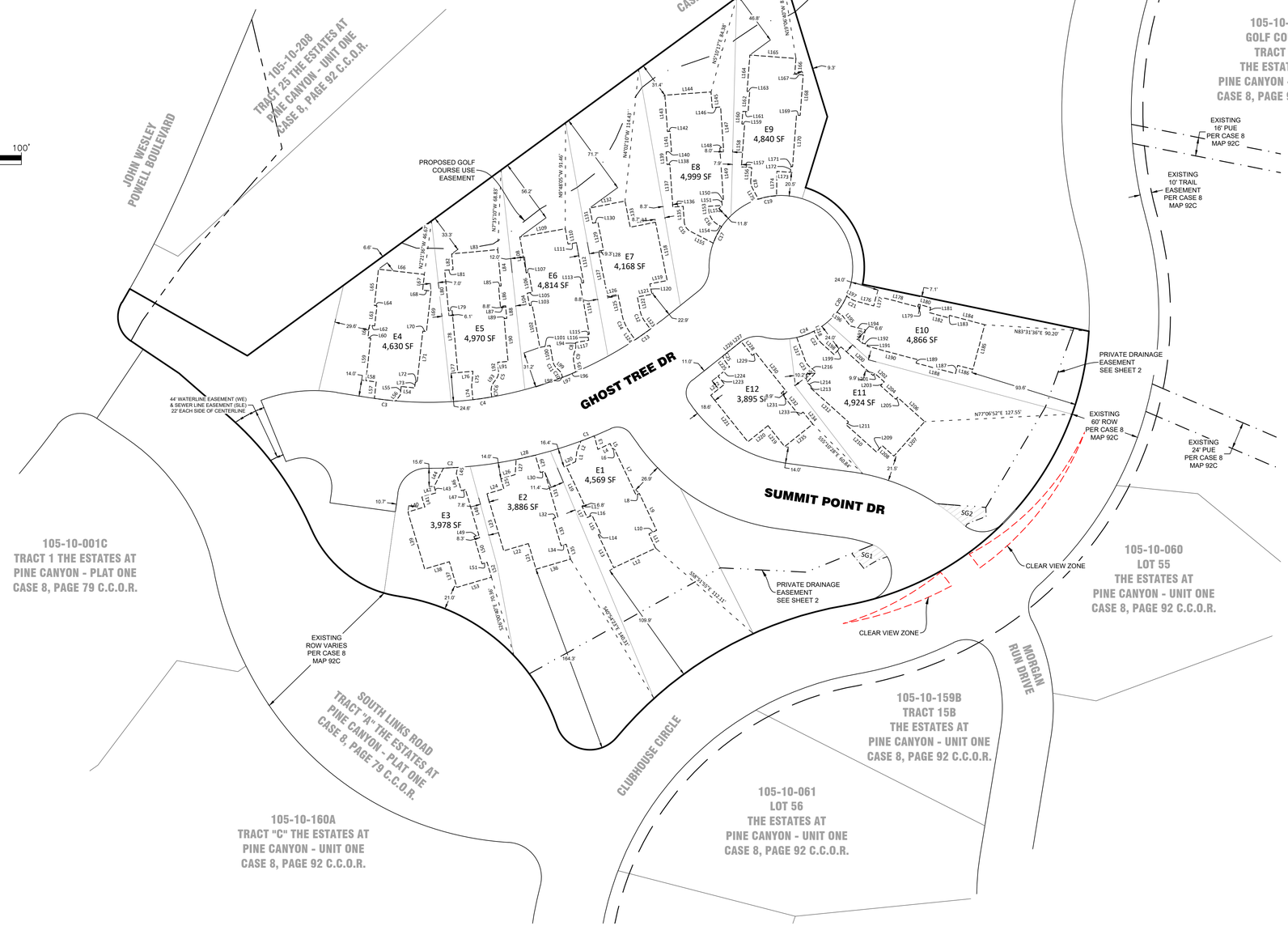
3201 SOUTH CLUBHOUSE CIRCLE, APN 105-10-206
BEING A RESUBDIVISION TRACT 23 OF THE ESTATES AT PINE CANYON UNIT 1, CASE 8 MAP 92C, C.C.O.R.
AND BEING A SUBDIVISION PORTION OF PARCEL 2A OF THAT SPECIAL WARRANTY DEED
RECORDED AT DOCUMENT #3644276, C.C.O.R.
LOCATED IN SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST,
GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA

THERE ARE PUBLIC UTILITIES LOCATED WITHIN THE SUBJECT PROPERTY. PLEASE CONTACT AZ811 BEFORE CONSTRUCTION.

N

0 25' 50' 100'

SCALE: 1" = 50'



Call at least two full working days before you begin excavation
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GRANITE BASIN ENGINEERING, INC.
1501 COMMERCE CENTER BLVD. | FORT MOHAVE, ARIZONA 86426
PH: (928) 215-0271 | FAX: (928) 215-0341
WWW.GRANITEBASINENGINEERING.COM

TLC PC LAND INVESTORS, LLC
8601 NORTH SCOTTSDALE ROAD, SUITE 335
SCOTTSDALE, ARIZONA 85253

AMENDED FINAL PLAT FOR
GHOST TREE AT PINE CANYON
BUILDING ENVELOPES PLAN



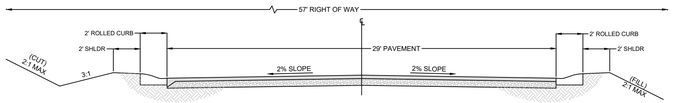
JOB:	19009
DATE:	06/11/2024
SCALE:	AS SHOWN
DRAWN:	TL/TRL
DESIGN:	TS
CHECKED:	TL

3

SHEET 3 OF 4

FILE: Z:\Projects\PINE CANYON\PROJECTS\19009 PC Tract 23 GHOST TREE\DWG\FPLAT\AMENDED FPLAT 9-8-2023\19009-03-FPLAT-BE.dwg <<C3D_Imperial>>

PLOTTED: Jun 11, 2024--9:44am



LOCAL RESIDENTIAL STREET SECTION

SCALE: 3/16" = 1'

-CUL-DE-SAC PER COF FD AMENDMENTS TO 2018 IFC SECTION 503.2.4
-LOCAL RESIDENTIAL STREET SECTION PER TABLE 13-10-011-01 CITY CODE WITHOUT SIDEWALK
-10% MAXIMUM ROADWAY SLOPE ALLOWED
-'FIRE LANE - NO PARKING' SIGNS SHALL BE PLACED PER COF FIRE DEPARTMENT REQUIREMENTS

AMENDED FINAL PLAT FOR

GHOST TREE AT PINE CANYON

AS AMENDED FROM DOCUMENT #3968489, C.C.O.R.

3201 SOUTH CLUBHOUSE CIRCLE, APN 105-10-206
BEING A RESUBDIVISION TRACT 23 OF THE ESTATES AT PINE CANYON UNIT 1, CASE 8 MAP 92C, C.C.O.R.
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GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA

STEEP SLOPES RESOURCE SUMMARY

STEEP SLOPES RESOURCE	TOTAL SQUARE FEET	REQUIRED SLOPE PROTECTION		PROPOSED SLOPE PROTECTION	
		PERCENTAGE	SQUARE FEET	PERCENTAGE	SQUARE FEET
SLOPES 17%-24.99%	89,393	70%	62,575	68.50%	61,235
SLOPES 25%-34.99%	26,326	80%	21,061	84.37%	22,212
SLOPES 35%+	NONE	-	-	-	-

FOREST RESOURCE SUMMARY

EXISTING TREE RESOURCE POINTS	REQUIRED TREE PROTECTION		PROPOSED TREE PROTECTION	
	PERCENTAGE	POINTS	PERCENTAGE	POINTS
529	50%	265	50.47%	267

FOREST RESOURCE PROTECTION DATA

FOREST RESOURCES	POINTS	%
PARENT PROPERTY TOTAL AVAILABLE FOREST RESOURCE CREDIT POINTS	529	100.00%
FOREST RESOURCE CREDIT POINTS, PROTECTED OUTSIDE OF BUILDING ENVELOPES, DERIVED FROM TREE SURVEY	244	46.12%
FOREST RESOURCE CREDIT POINTS DERIVED FROM PROTECTED STEEP SLOPES (OVER & ABOVE MINIMUM REQUIRED)	23	4.35%
TOTAL PROTECTED FOREST RESOURCE CREDIT POINTS	267	50.47%

LOT 1 (E1)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
C1	12.35	1.87	378.50
L3	12.08	S24° 40' 08"E	
L5	5.00	S35° 06' 23"E	
L4	11.69	N54° 53' 37"E	
L6	1.47	N54° 53' 37"E	
L7	44.60	S35° 06' 23"E	
L8	3.16	N54° 53' 37"E	
L9	35.19	S35° 06' 23"E	
L10	7.33	S54° 53' 37"W	
L11	13.56	S35° 06' 23"E	
L12	39.91	S54° 53' 37"W	
L13	31.48	N35° 06' 23"W	
L14	2.25	N54° 53' 37"E	
L15	17.45	N35° 06' 23"W	
L18	2.38	N54° 53' 37"E	
L16	4.57	S54° 53' 37"W	
L17	10.94	N35° 06' 23"W	
L19	36.99	N35° 06' 23"W	
L20	8.96	N54° 53' 37"E	
L1	9.29	N02° 47' 10"W	
L2	9.32	N11° 51' 30"E	

LOT 2 (E2)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L28	16.91	N67° 11' 17"E	
L27	13.03	N06° 20' 57"W	
L30	3.71	N63° 39' 09"E	
L29	15.61	S26° 20' 51"E	
L31	41.04	S26° 20' 51"E	
L32	4.33	S63° 39' 09"W	
L33	24.57	S26° 20' 51"E	
L35	13.38	S26° 20' 51"E	
L34	4.56	N63° 39' 09"E	
L36	31.10	S63° 39' 09"W	
L21	23.08	N26° 20' 51"W	
L22	22.25	S63° 39' 09"W	
L23	51.33	N26° 20' 51"W	
L24	15.24	N63° 39' 09"E	
L25	8.99	N26° 56' 42"W	
L26	12.94	N63° 39' 09"E	

LOT 3 (E3)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L49	4.33	S63° 39' 09"W	
L48	41.04	S26° 20' 51"E	
L47	3.71	N63° 39' 09"E	
L46	15.30	S26° 20' 51"E	
L45	5.45	S00° 13' 01"E	
C2	12.06	1.51	458.86
L44	17.72	N16° 58' 13"E	
L43	5.73	N26° 20' 51"W	
L42	12.79	N63° 39' 09"E	
L41	8.99	N26° 56' 42"W	
L40	15.24	N63° 39' 09"E	
L39	51.33	N26° 20' 51"W	
L50	24.57	S26° 20' 51"E	
L52	13.38	S26° 20' 51"E	
L51	4.56	N63° 39' 09"E	
L53	31.10	S63° 39' 09"W	
L37	23.08	N26° 20' 51"W	
L38	22.25	S63° 39' 09"W	

LOT 4 (E4)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L73	5.00	S03° 32' 26"E	
L72	1.47	S86° 27' 34"W	
L71	44.60	S03° 32' 26"E	
L70	3.16	S86° 27' 34"W	
L69	35.19	S03° 32' 26"E	
L68	7.33	N86° 27' 34"E	
L67	13.56	S03° 32' 26"E	
L66	39.91	N86° 27' 34"E	
L65	31.48	N03° 32' 26"W	
L64	2.25	S86° 27' 34"W	
L63	17.45	N03° 32' 26"W	
L62	4.57	N86° 27' 34"E	
L61	10.94	N03° 32' 26"W	
L60	2.38	S86° 27' 34"W	
L59	36.99	N03° 32' 26"W	
L58	8.96	S86° 27' 34"W	
L57	14.37	N03° 32' 26"W	
C3	18.71	3.33	321.50
L56	6.43	S26° 23' 19"W	
L55	7.39	S03° 32' 26"E	
L54	11.69	S86° 27' 34"W	

LOT 5 (E5)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L85	2.25	S74° 41' 14"W	
L84	31.48	S15° 18' 46"E	
L83	39.91	N74° 41' 14"E	
L82	13.56	N15° 18' 46"W	
L81	7.33	N74° 41' 14"E	
L80	35.19	N15° 18' 46"W	
L79	3.16	S74° 41' 14"W	
L78	44.60	N15° 18' 46"W	
L77	9.21	N15° 18' 46"W	
L76	13.12	S74° 41' 14"W	
L75	12.44	N04° 22' 13"W	
L74	12.29	N15° 18' 46"W	
C7	5.39	14.48	21.32
C6	7.48	42.88	10.00
L93	3.76	S27° 34' 00"W	
C5	7.48	42.88	10.00
L92	7.62	S15° 18' 46"E	
L91	8.96	S74° 41' 14"W	
C4	16.43	2.93	321.50
L89	2.38	S74° 41' 14"W	
L88	10.94	S15° 18' 46"E	
L87	4.57	N74° 41' 14"E	
L86	17.45	S15° 18' 46"E	

LOT 6 (E6)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L111	7.33	N69° 41' 29"E	
L110	13.56	S20° 18' 31"E	
L109	39.91	N69° 41' 29"E	
L107	2.25	S69° 41' 29"W	
L108	31.48	N20° 18' 31"W	
L106	17.45	N20° 18' 31"W	
L104	10.94	N20° 18' 31"W	
L103	2.38	S69° 41' 29"W	
L105	4.57	N69° 41' 29"E	
L113	3.16	S69° 41' 29"W	
L112	35.19	S20° 18' 31"E	
L114	44.60	S20° 18' 31"E	
L117	11.69	S69° 41' 29"W	
L116	5.00	S20° 18' 31"E	
L115	1.47	S69° 41' 29"W	
L102	36.99	N20° 18' 31"W	
L101	8.96	S69° 41' 29"W	
L100	14.20	N20° 18' 31"W	
C11	7.01	40.18	10.00
L99	1.32	N60° 29' 30"W	
C10	7.01	40.18	10.00
L98	0.97	N20° 18' 31"W	
L97	5.47	S58° 10' 01"W	
L96	6.81	S57° 04' 24"W	
L95	9.50	S20° 18' 31"E	
C9	8.97	34.26	15.00
C8	5.98	34.26	10.00
L94	1.44	S20° 18' 31"E	

LOT 7 (E7)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L134	22.25	N68° 43' 43"E	
L133	23.08	S21° 16' 17"E	
L132	31.10	N68° 43' 43"E	
L131	13.38	N21° 16' 17"W	
L130	4.56	S68° 43' 43"W	
L129	24.57	N21° 16' 17"W	
L128	4.33	N68° 43' 43"E	
L118	51.33	S21° 16' 17"E	
L127	39.98	N21° 16' 17"W	
C13	16.00	2.85	321.50
L123	9.31	S45° 07' 22"E	
C12	8.33	23.85	20.00
L122	12.76	S21° 16' 17"E	
L121	12.79	S68° 43' 43"W	
L120	8.99	S21° 52' 08"E	
L119	15.24	S68° 43' 43"W	
L125	18.23	N21° 16' 17"W	
C14	14.99	23.85	36.00
L124	9.31	N45° 07' 22"W	
L126	9.19	S68° 43' 43"W	

LOT 8 (E8)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L148	3.16	S75° 59' 27"W	
L147	35.19	S14° 00' 33"E	
L146	7.33	N75° 59' 27"E	
L145	13.56	S14° 00' 33"E	
L144	39.91	N75° 59' 27"E	
L142	2.25	S75° 59' 27"W	
L141	17.45	N14° 00' 33"W	
L140	4.57	N75° 59' 27"E	
L139	10.94	N14° 00' 33"W	
L138	2.38	S75° 59' 27"W	
L143	31.48	N14° 00' 33"W	
L149	44.60	S14° 00' 33"E	
L155	22.14	N72° 51' 31"W	
C17	16.04	14.84	61.96
L154	3.38	S72° 51' 31"E	
C16	15.41	58.85	15.00
L153	3.76	S14° 00' 33"E	
L152	11.69	S75° 59' 27"W	
L151	5.00	S14° 00' 33"E	
L150	1.47	S75° 59' 27"W	
L137	36.99	N14° 00' 33"W	
L136	8.96	S75° 59' 27"W	
L135	13.53	N14° 00' 33"W	
C15	10.27	58.85	10.00

LOT 9 (E9)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L169	3.16	S84° 20' 40"W	
L168	35.19	S05° 39' 20"E	
L167	7.33	N84° 20' 40"E	
L166	13.56	S05° 39' 20"E	
L165	39.91	N84° 20' 40"E	
L164	31.48	N05° 39' 20"W	
L163	2.25	S84° 20' 40"W	
L162	17.45	N05° 39' 20"W	
L161	4.57	N84° 20' 40"E	
L160	10.94	N05° 39' 20"W	
L159	2.38	S84° 20' 40"W	
L170	44.60	S05° 39' 20"E	
L158	36.99	N05° 39' 20"W	
L175	11.47	N38° 11' 40"W	
C19	16.04	14.83	62.00
L174	21.08	S09° 05' 22"E	
L173	11.69	S84° 20' 40"W	
L172	5.00	S05° 39' 20"E	
L171	1.47	S84° 20' 40"W	
L157	8.96	S84° 20' 40"W	
L156	11.71	N05° 39' 20"W	
C18	5.68	32.54	10.00

LOT 10 (E10)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
C21	4.23	16.15	15.00
L197	5.26	S68° 54' 23"E	
C20	16.04	14.83	62.00
L196	5.68	N66° 12' 49"W	
L195	10.96	N46° 57' 33"W	
L194	13.62	N85° 03' 17"W	
L185	39.91	S04° 56' 43"W	
L184	31.48	S85° 03' 17"E	
L183	2.25	N04° 56' 43"E	
L182	17.45	S85° 03' 17"E	
L181	4.57	S04° 56' 43"W	
L180	10.94	S85° 03' 17"E	
L179	2.38	N04° 56' 43"E	
L178	36.99	S85° 03' 17"E	
L177	8.96	N04° 56' 43"E	
L176	15.45	S85° 03' 17"E	
L192	5.00	N85° 03' 17"W	
L191	1.47	N04° 56' 43"E	
L190	44.60	N85° 03' 17"W	
L193	11.69	N04° 56' 43"E	
L189	3.16	N04° 56' 43"E	
L188	35.19	N85° 03' 17"W	
L187	7.33	S04° 56' 43"W	
L186	13.56	N85° 03' 17"W	

LOT 11 (E11)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L218	2.70	S30° 08' 45"E	
C24	16.04	14.83	62.00
L217	21.77	N30° 08' 45"W	
C23	4.89	28.01	10.00
L216	8.48	N58° 09' 31"W	
L215	11.69	N31° 50' 29"E	
L214	5.00	N58° 09' 31"W	
L213	1.47	N31° 50' 29"E	
L199	8.96	N31° 50' 29"E	
L198	14.60	S58° 09' 31"E	
C22	9.78	28.01	20.00
L200	36.99	S58° 09' 31"E	
L202	10.94	S58° 09' 31"E	
L203	4.57	S31° 50' 29"W	
L201	2.38	N31° 50' 29"E	
L204	17.45	S58° 09' 31"E	
L205	2.25	N31° 50' 29"E	
L206	31.48	S58° 09' 31"E	
L212	44.60	N58° 09' 31"W	
L211	3.16	N31° 50' 29"E	
L210	35.19	N58° 09' 31"W	
L209	7.33	S31° 50' 29"W	
L208	13.56	N58° 09' 31"W	
L207	39.91	S31° 50' 29"W	

LOT 12 (E12)

BUILDING ENVELOPE DATA

SEGMENT #	LENGTH	BEARING/DELTA	RADIUS
L230	41.04	S48° 33' 24"E	
L229	3.71	N41° 26' 36"E	
L228	15.34	S48° 33' 24"E	
L227	1.86	N43° 32' 40"E	
L226	18.33	N41° 24' 38"E	
C25	5.14	29.46	10.00
L225	6.08	N48° 33' 24"W	
L224	12.79	N41° 26' 36"E	
L223	8.99	N49° 09' 15"W	
L222	15.24	N41° 26' 36"E	
L221	51.33	N48° 33' 24"W	
L231	4.33	S41° 26' 36"W	
L233	4.56	N41° 26' 36"E	
L232	24.57	S48° 33' 24"E	
L234	13.38	S48° 33' 24"E	
L235	31.10	S41° 26' 36"W	
L220	22.25	S41° 26' 36"W	
L219	23.08	N48° 33' 24"W	

GOLF EASEMENT LINE TABLE

LINE #	LENGTH	DIRECTION
L270	46.34'	N43° 48' 33"E
L290	32.18'	N43° 48' 33"E
L271	49.24'	S04° 29' 27"E
L272	27.54'	S37° 42' 54"W
L273	9.58'	S50° 06' 02"W
L274	23.56'	S66° 15' 34"W
L275	24.50'	S46° 10' 18"W
L276	19.87'	S41° 42' 22"W
L277	52.17'	S61° 06' 40"W
L278	20.00'	S42° 12' 24"W
L279	15.91'	S25° 02' 59"W
L280	34.04'	S13° 18' 27"W
L281	31.47'	S18° 44' 15"W
L282	23.06'	S41° 45' 19"W
L283	36.70'	S49° 51' 43"W
L284	35.56'	S42° 12' 29"W
L285	15.62'	S45° 58' 40"W
L286	26.11'	S69° 58' 42"W
L287	24.82'	S81° 51' 16"W
L288	15.57'	S80° 30' 07"W
L289	13.78'	N80° 29' 17"W

Call at least two full working days before you begin excavation
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602) 263-1100

REVISIONS

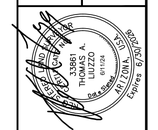
NUM.	DESCRIPTION	DATE	BY

☐ FOR REVIEW ONLY
☐ FOR BID ONLY
☒ FOR APPROVAL ONLY
☒ FOR RECORDING ONLY
☐ FOR CONSTRUCTION ONLY
☐ FOR AS-BUILT ONLY

GRANITE BASIN ENGINEERING, INC.
CIVIL ENGINEERING & LAND DEVELOPMENT CONSULTANTS
1301 COMMERCE CENTER DRIVE, SUITE 101, LAKE HAVASU CITY, ARIZONA 86403
PH: (928) 212-0171 FAX: (928) 212-0181
WWW.GRANITEBASINENGINEERING.COM

TLC PC LAND INVESTORS, LLC
8601 NORTH SCOTTSDALE ROAD, SUITE 335
SCOTTSDALE, ARIZONA 85253

AMENDED FINAL PLAT FOR
GHOST TREE AT PINE CANYON
BUILDING ENVELOPE AND EASEMENT TABLES



JOB: 19009
DATE: 06/11/2024
SCALE: AS SHOWN
DRAWN: TL/TRL
DESIGN: TS
CHECKED: TL

4

SHEET 4 OF 4

FILE: Z:\Projects\PINE CANYON\PROJECTS\19009 PC Tract 23 GHOST TREE\DWG\FPLAT\AMENDED FPLAT 9-8-2023\19009-04-FPLAT-TABLES.dwg <<C3D_Imperial>>

CITY / SUBDIVIDER AGREEMENT
CITY OF FLAGSTAFF, ARIZONA

This Agreement is entered into by and between the CITY OF FLAGSTAFF, a municipal corporation duly created and existing under the laws of the State Arizona, hereinafter referred to as CITY; and TLCPC Investors LLC _____ Subdivider, hereinafter referred to as SUBDIVIDER.

WITNESSETH

WHEREAS, TLCPC Land Investors (Subdivider) desires to subdivide property within the City of Flagstaff, Arizona known as Pine Canyon "Ghost Tree" Plat; and

WHEREAS, CITY is agreeable to accepting said subdivision as proposed; providing that the subdivider constructs the subdivision in accordance with City standards and as set forth in the approved preliminary plat, and while fulfilling the obligations set forth below, which the subdivider hereby assumes; and

WHEREAS, building permit(s) is (are) required and will be issued following execution of this agreement;

NOW, THEREFORE, in consideration of the subdivision and the mutual covenants of the parties hereinafter expressed, the parties hereto agree as follows:

1. SUBDIVIDER agrees to construct all improvements in conformance with the CITY'S Subdivision Regulations and the "General Construction, Standards and Specifications" of the CITY, and to employ a responsible supervisor.

2. SUBDIVIDER further agrees to dedicate all streets and rights-of-way to the CITY for public use and to offer all public improvements to the CITY for acceptance into the CITY system.

3. The CITY agrees to accept the Subdivision as platted and to accept ownership of public improvements upon their completion and approval by the CITY.

4. In the event that the CITY should be required to institute any action for the enforcement of this agreement, SUBDIVIDER, shall be required to pay a reasonable attorney's fee in addition to all other costs assessed in any such action.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on their own behalf and by the duly authorized officials and officers on the day and year herein written.

(Signed):

Subdivider/Title

Partner
Subdivider/Title

STATE OF ARIZONA)
) ss
County of Coconino)

SUBSCRIBED AND SWORN to before me this 24 day of October, 2022 by Todd Severson.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

SWANIE SACCENTE
Notary Public
Commission Number 581002
Expires: April 21, 2024
Maricopa County

My Commission expires: 4/21/24

Notary Public

Dated this _____ day of _____ 20_____ in Flagstaff, Coconino County, Arizona.

By: _____
Mayor

ATTEST:

_____
City Clerk

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Wesley Welch, Planner

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Final Plat TLC PC Land Investors, LLC requests Final Plat approval for Ghost Tree III at Pine Canyon (PZ-21-00155-06) located at 3201 South Clubhouse Circle, a 3-lot single-family home subdivision on 1.93 acres in the Single-Family Residential (R1) Zone.

STAFF RECOMMENDED ACTION:

Approve the Final Plat and authorize the Mayor to sign the Final Plat and City/Subdivider Agreement when notified by staff that all documents are ready for signature and recording.

Executive Summary:

TLC PC Land Investors, LLC requests Final Plat approval for Ghost Tree III, located at 3201 S Clubhouse Circle, a single-family subdivision of 3 lots on 1.93 acres in the Single-Family Residential (R1) Zone. This site has a Resource Protection Overlay and is currently vacant. It is located within the Pine Canyon development site.

Financial Impact:

There are no financial impacts associated with this Final Plat.

Policy Impact:

There are no policy impacts affiliated with this Final Plat.

Previous Council Decision or Community Discussion:

There has been no prior Council decision on the Ghost Tree III plat. However, Ghost Tree III is located in what was previously Tract E on the Ghost Tree II plat. The final plat for Ghost Tree II was approved by Council on January 3, 2023. However, there were many small errors in the plat and the Coconino County Recorder's office would not record the document with a list of corrections. The amended plat has fixed this issue and is now going through the process once again to receive approval. The Preliminary Plat for the updated version of Ghost Tree II was approved by City Council on June 18, 2024.

Options and Alternatives to Recommended Action:

1. Approve the Final Plat with no conditions, as recommended by city staff.
2. Approve the Final Plat with conditions.
3. Deny the Final Plat based on non-compliance with the Zoning Code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure

Background and History:

The Ghost Tree II Plat identified Tract E as an area for future development. Tract E was not able to be further subdivided until the Ghost Tree II Plat was amended and finalized which is happening concurrently with this plat.

The City's subdivision code allows for a Modified Subdivision Process per code section 11-20.90 for

subdivisions where a maximum of four lots are proposed. The Modified Subdivision Process does not require a Preliminary Plat. The Ghost Tree III Final Plat, which contains three lots and has no public infrastructure improvements, is utilizing this Modified Subdivision Process.

Connection to PBB Priorities and Objectives:
Livable Community - Provide amenities and activities that support a healthy lifestyle
Livable Community - Actively support attainable and affordable housing through City projects and opportunities with developers.
Livable Community - Achieve a well-maintained community through comprehensive & equitable code compliance, & development that is compatible with community values.
Environmental Stewardship - Actively manage and protect all environmental and natural resources.

Connection to Regional Plan:
Goal E&C.7. Give special consideration to environmentally sensitive lands in the development design and review process.
Policy E&C7.2. Favor the use of available mechanisms at the City and County level for the preservation of environmentally sensitive lands, including but not limited to public acquisition, conservation easements, transfer of development rights, or clustered development with open space designations.
Goal CC.1 Reflect and respect the region's natural setting and dramatic views in the built environment.
Goal CC.3 Preserve, restore, enhance, and reflect the design traditions of Flagstaff in all public and private development efforts.
Goal LU.3 Continue to enhance the region's unique sense of place within the urban, suburban, and rural context.
Goal LU.5 Encourage compact development principles to achieve efficiencies and open space preservation.
Goal NH.1. Foster and maintain healthy and diverse urban, suburban, and rural neighborhoods in the Flagstaff region.

Connection to Carbon Neutrality Plan:
HF-1 Protect existing forests, resources, and meaningful open spaces.

Connection to 10-Year Housing Plan:
N/A

Attachments: Ghost Tree III Final Plat
City/Subdivider Agreement

PLOTTED: Aug 13, 2024--1:11pm

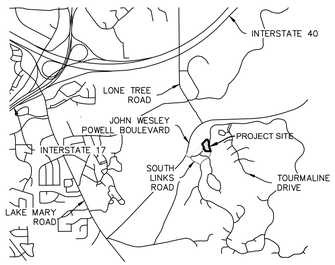
FINAL PLAT FOR

GHOST TREE THREE AT PINE CANYON

A MINOR SUBDIVISION BEING A REPLAT OF TRACT E GHOST TREE AT PINE CANYON

AS RECORDED AT DOCUMENT #3968489, C.C.O.R.

3201 SOUTH CLUBHOUSE CIRCLE, APN 105-10-206
LOCATED IN SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST,
GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA



VICINITY MAP
SCALE: 1" = 1/2 MILE

N

DEDICATIONS TO CITY

STATE OF ARIZONA

COUNTY OF COCONINO

KNOW ALL PERSONS BY THESE PRESENTS: THAT GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY,AS OWNER, HAS SUBDIVIDED UNDER THE NAME, "GHOST TREE THREE AT PINE CANYON" A MINOR SUBDIVISION BEING A REPLAT OF TRACT 'E' OF THE AMENDED FINAL PLAT FOR GHOST TREE AT PINE CANYON LOCATED IN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AS "GHOST TREE THREE AT PINE CANYON" A MINOR SUBDIVISION BEING A REPLAT OF TRACT 'E' OF GHOST TREE AT PINE CANYON AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES DIMENSIONS OF EACH LOT AND EASEMENT CONSTITUTING THE SAME, AND THAT EACH LOT AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

SAID SUBDIVISION BEING TRACT 'E' OF GHOST TREE AT PINE CANYON, AS DEPICTED AT INSTRUMENT #3968489, COCONINO COUNTY OFFICIAL RECORDS.

EASEMENTS DEDICATED

THERE ARE NO DEDICATION TO THE CITY OF FLAGSTAFF AS PART OF THIS PLAT.

IMPROVEMENTS

GRANTOR HEREBY DEDICATES TO THE CITY OF FLAGSTAFF ALL IMPROVEMENTS INSTALLED OR CONSTRUCTED BY GRANTOR FOR CITY UTILITIES WITHIN THE EASEMENT AREAS, AND SUCH DEDICATION SHALL BE EFFECTIVE WHEN FORMALLY ACCEPTED BY THE CITY ENGINEER (THE "ACCEPTANCE DATE.").

NOW, THEREFORE, IN WITNESS WHEREOF, GRANTOR HAS HEREUNTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 20__.

GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

IN WITNESS WHEREOF, GRANTOR(S) HAS/HAVE HEREUNTO CAUSED HIS/HER/THEIR NAME(S) TO BE SIGNED, THIS _____ DAY OF _____, 20__.

GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY ("GRANTOR")

BY: _____

DATE: _____

STATE OF ARIZONA)
) SS
COUNTY OF COCONINO)

ON THIS_____DAY OF _____, 20__, BEFORE ME PERSONALLY APPEARED_____, THE_____, AN_____

FOR AND ON BEHALF THEREOF, WHOSE IDENTITY WAS PROVEN TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHO HE OR SHE CLAIM TO BE, AND ACKNOWLEDGED THAT HE OR SHE SIGNED THE ABOVE DOCUMENT

_____
NOTARY PUBLIC

BASIS OF BEARINGS & BENCHMARKS

THE BASIS OF BEARING FOR THIS SURVEY IS ON THE CITY OF FLAGSTAFF LOCAL DATUM AND THE NAVD 88 VERTICAL DATUM AND IS N 00° 04' 09" EAST 2647.39' ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 34 BETWEEN THE WEST QUARTER CORNER (RM 1) MARKED BY A BLM BRASS CAP DATED 1965 AND THE NORTHWEST CORNER (RM 2)MARKED BY A BLM BRASS CAP DATED 1965.

REFERENCE MARK	NORTHING	EASTING	ELEVATION(88)
RM 1	38853.27	31698.75	6991.57
RM 2	41500.83	31702.05	6927.21

THE COORDINATE SYSTEM FOR THIS PROJECT IS THE CITY OF FLAGSTAFF LOCAL COORDINATE SYSTEM MODIFIED FROM ARIZONA STATE PLANE CENTRAL ZONE. THE PROJECT IS DESIGNED ON THE NAVD 88 ELEVATION.

SURVEYOR'S CERTIFICATE:

I, THOMAS A. LIUZZO, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD LICENSE NUMBER 33861 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF ARIZONA, I FURTHER CERTIFY THAT I HAVE PREPARED THIS PLAT FROM THE ORIGINAL FIELD NOTES MADE DURING A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND THAT THIS PLAT IS A TRUE AND ACCURATE MAP OF THE LAND SURVEYED AND WAS PERFORMED IN ACCORDANCE WITH THE ARIZONA MINIMUM STANDARDS FOR LAND SURVEY EFFECTIVE FEBRUARY 2002.

DRIVEWAY SLOPES

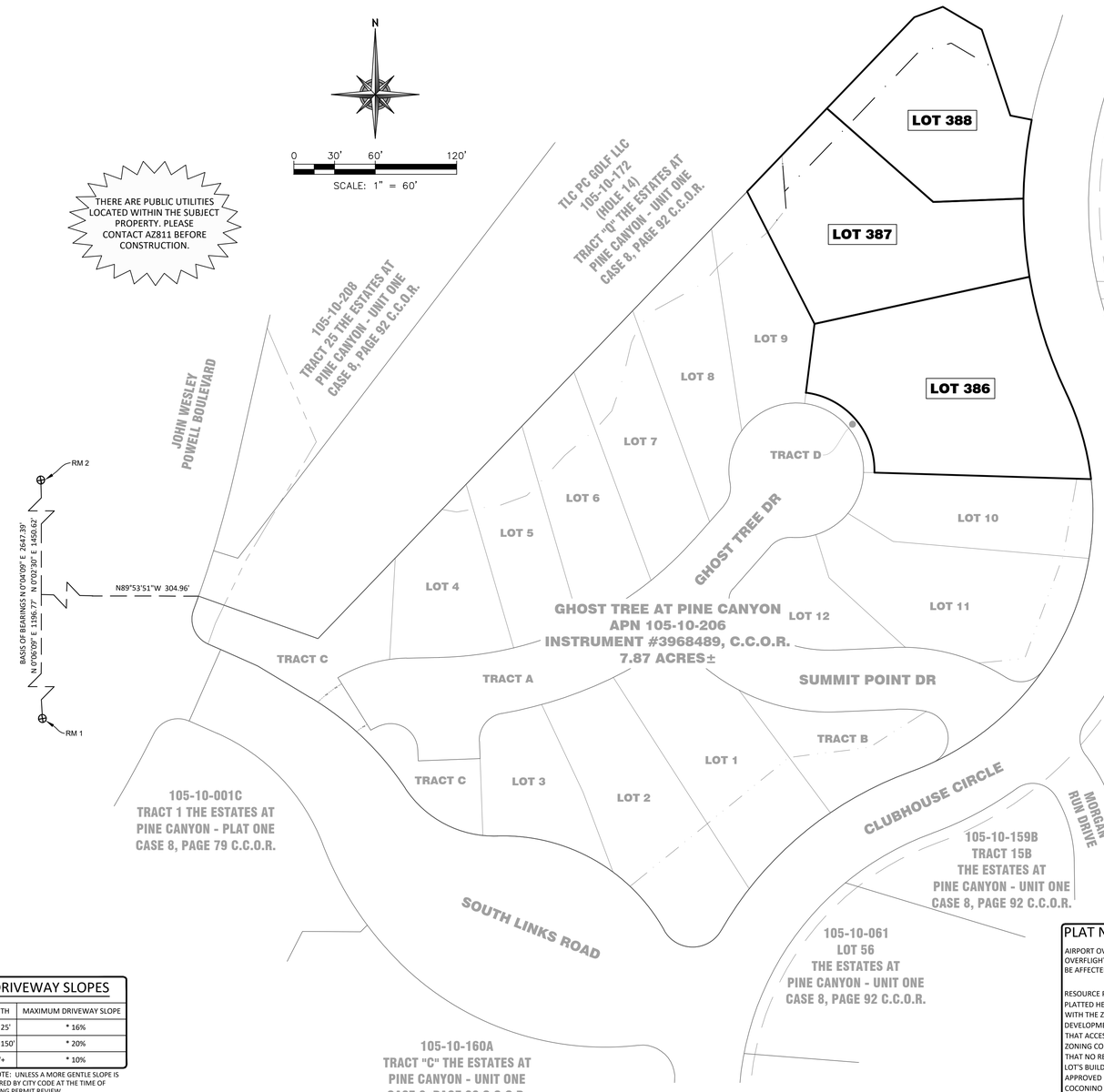
LENGTH	MAXIMUM DRIVEWAY SLOPE
0' TO 25'	* 16%
25' TO 150'	* 20%
150'+	* 10%

(*) NOTE: UNLESS A MORE GENTLE SLOPE IS REQUIRED BY CITY CODE AT THE TIME OF BUILDING PERMIT REVIEW.

N

0 30' 60' 120'
SCALE: 1" = 60'

THERE ARE PUBLIC UTILITIES LOCATED WITHIN THE SUBJECT PROPERTY. PLEASE CONTACT AZ811 BEFORE CONSTRUCTION.



PROJECT INFORMATION

CLIENT:
GHOST TREE AT PINE CANYON, LLC
8601 NORTH SCOTTSDALE ROAD SUITE 335
SCOTTSDALE, ARIZONA 85253
(602) 616-6828

ENGINEER / SURVEYOR:
GRANITE BASIN ENGINEERING, INC.
1981 COMMERCE CENTER CIRCLE, SUITE B
PRESCOTT, ARIZONA 86301
(928) 717-0171
THOMAS A. LIUZZO, RLS #33861

SITE DATA:
ASSESSOR PARCEL NUMBER(S)
105-10-206
NEW APN NOT YET ASSIGNED
TRACT "E" AT INSTRUMENT #3968489, O.R.C.C.
3201 SOUTH CLUBHOUSE CIRCLE
FLAGSTAFF, AZ 86005
1.93 AC ±
3 LOTS
0.64 UNITS PER ACRE

ZONING NOTE:
CITY OF FLAGSTAFF ZONING INFORMATION
R1; SINGLE FAMILY RESIDENTIAL

PROJECT WATER INFORMATION

1. THE CITY OF FLAGSTAFF PROVIDES WATER [UTILITY] SERVICE PURSUANT TO STATE LAW, AND IS CURRENTLY OPERATING UNDER A DESIGNATION OF ADEQUATE WATER SUPPLY GRANTED BY THE ARIZONA DEPARTMENT OF WATER RESOURCES, APPLICATION NO. 41-900002.0002.

PUBLIC UTILITY EASEMENT NOTE

EXCEPT FOR CONSTRUCTION AND IMPROVEMENTS BY GOVERNMENTAL ENTITIES AND CERTIFICATED PUBLIC UTILITIES, CONSTRUCTION AND IMPROVEMENTS WITHIN UTILITY EASEMENTS SHALL BE LIMITED TO ONLY THE FOLLOWING: REMOVABLE WOOD, WIRE OR SECTION-TYPE FENCING; CONSTRUCTION, STRUCTURES OR BUILDING EXPRESSLY APPROVED IN WRITING BY ALL PUBLIC UTILITIES WHICH USE OR SHALL USE THE UTILITY EASEMENT.

DEDICATIONS BY THE DEVELOPER

STATE OF ARIZONA

COUNTY OF COCONINO

KNOW ALL PERSONS BY THESE PRESENTS: THAT GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY,AS OWNER, HAS SUBDIVIDED UNDER THE NAME, "GHOST TREE THREE AT PINE CANYON" A MINOR SUBDIVISION BEING A REPLAT OF TRACT 'E' OF THE AMENDED FINAL PLAT FOR GHOST TREE AT PINE CANYON BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AS FOR THE PLAT OF "GHOST TREE THREE AT PINE CANYON" A MINOR SUBDIVISION BEING A REPLAT OF TRACT 'E' OF GHOST TREE AT PINE CANYON AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES DIMENSIONS OF EACH LOT, TRACT, STREET (PRIVATE), AND EASEMENT CONSTITUTES THE SAME, AND THAT EACH LOT, TRACT, STREET, AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

SAID SUBDIVISION BEING TRACT 'E' OF GHOST TREE AT PINE CANYON, AS DEPICTED AT INSTRUMENT #3968489, COCONINO COUNTY OFFICIAL RECORDS.

IN ADDITION TO THE DEDICATIONS TO THE CITY OF FLAGSTAFF, ARIZONA, THE GRANTOR HEREBY DEDICATES THE FOLLOWING:

1. THE EASEMENTS AS SHOWN HEREON ARE FOR THE USES DESCRIBED FOR EACH, RESPECTIVELY, AND ARE DETAILED AS FOLLOWS:
   A. EASEMENT #1 IS FOR GOLF COURSE USE.
2. ALL LOTS WITHIN THIS SUBDIVISION REQUIRES THE INSTALLATION OF INDIVIDUAL PRIVATE GRINDER PUMPS (E/ONE EXTREME SERIES OR APPROVED EQUAL). ALL LOT OWNERS ARE RESPONSIBLE FOR INSTALLING THEIR INDIVIDUAL PRIVATE GRINDER PUMPS TO THE MANUFACTURERS SPECIFICATIONS. THESE INDIVIDUAL PRIVATE GRINDER PUMPS WILL CONVEY SEWAGE THROUGH A PRIVATE LOW PRESSURE SERVICE LINE INSTALLED BY EACH INDIVIDUAL LOT OWNER AND CONNECT TO THE PUBLIC SEWER SERVICE STUB PLACED AT EACH INDIVIDUAL LOT.
3. THIS SUBDIVISION SHALL BE SUBJECT TO AND TOGETHER WITH ALL DECLARATIONS, COVENANTS, RESERVATIONS & RESTRICTIONS WITHIN THE EXISTING DOCUMENTS FOR THE SUBJECT PROPERTY ON FILE WITHIN THE COCONINO COUNTY OFFICIAL RECORDS. THE DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR "THE ESTATES AT PINE CANYON ARE RECORDED AT DOCUMENT NUMBER 3171314, COCONINO COUNTY OFFICIAL RECORDS, DATED NOVEMBER 22, 2002, AND AT DOCUMENT NUMBER 3216111, COCONINO COUNTY OFFICIAL RECORDS, DATED AUGUST 8, 2003, WHICH SAID SUBDIVISION SHOWN AND PLATTED HEREIN IS A PART OF THE PARCEL(S) REFERRED TO IN THE RECITALS THEREOF, AND THERE MAY BE HEREAFTER PUBLISHED DESIGN GUIDELINES THAT MAY BE OR MAY NOT BE RECORDED THAT SAID LOTS WOULD BE SUBJECT TO AND AMENDMENTS TO THE DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS AND MY INCLUDE THE GRANT OF EASEMENT AND OTHER RIGHTS FOR THE PURPOSE OF REGULATING ANY LOTS OR TRACTS WITHIN THE ABOVE DESCRIBED PREMISES.

NOW, THEREFORE, IN WITNESS WHEREOF, GRANTOR HAS HEREUNTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 20__.

GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

IN WITNESS WHEREOF, GRANTOR(S) HAS/HAVE HEREUNTO CAUSED HIS/HER/THEIR NAME(S) TO BE SIGNED, THIS_____ DAY OF _____, 20__.

GHOST TREE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY_____

ITS_____

GHOST TREE AT PINE, LLC, AN ARIZONA LIMITED LIABILITY COMPANY ("GRANTOR")

BY: _____

DATE: _____

STATE OF ARIZONA)
) SS
COUNTY OF COCONINO)

ON THIS_____DAY OF _____, 20__, BEFORE ME PERSONALLY APPEARED_____, THE_____, AN_____

FOR AND ON BEHALF THEREOF, WHOSE IDENTITY WAS PROVEN TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHO HE OR SHE CLAIM TO BE, AND ACKNOWLEDGED THAT HE OR SHE SIGNED THE ABOVE DOCUMENT.

_____
NOTARY PUBLIC

CITY OF FLAGSTAFF CERTIFICATION

IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR THE RECORD BY THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA ON THE_____ DAY OF _____, 20__.

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR THE RECORD BY THE INTER-DIVISION STAFF REVIEW OF THE CITY OF FLAGSTAFF, ARIZONA ON THE DAY OF _____, 20__.

BY: _____
CITY ENGINEER

BY: _____
PLANNING DIRECTOR

PLAT NOTES

AIRPORT OVERFLIGHT AREA. THE PROPERTY IS LOCATED WITHIN AIRCRAFT OVERFLIGHT AREA AS SHOWN IN THE AIRPORT MASTER PLAN. THIS PROPERTY MAY BE AFFECTED BY NOISE OR EMISSIONS FROM AIRCRAFT.

RESOURCE PROTECTION. A BUILDING ENVELOPE FOR EACH LOT IS SHOWN AND PLATTED HEREON FOR THE PURPOSE OF MAINTAINING RESOURCES IN ACCORDANCE WITH THE ZONING CODE'S RESOURCE PROTECTION OVERLAY DESIGNATION. ALL DEVELOPMENT ON A LOT SHALL OCCUR WITHIN THE BUILDING ENVELOPE, EXCEPT THAT ACCESSORY STRUCTURES THAT COMPLY WITH THE REQUIREMENTS OF THE ZONING CODE MAY BE DEVELOPED OUTSIDE OF THE BUILDING ENVELOPE, PROVIDED THAT NO RESOURCES ARE REMOVED OR ENCROACHED UPON. A MODIFICATION TO A LOT'S BUILDING ENVELOPE THAT COMPLIES WITH THE ZONING CODE MAY BE APPROVED BY THE CITY OF FLAGSTAFF'S PLANNING DIRECTOR AND RECORDED IN COCONINO COUNTY, ARIZONA. ALL APPLICABLE PROVISIONS OF THE ZONING CODE, AS AMENDED, SHALL APPLY.

SHEET INDEX

1	SITE OVERVIEW
2	LOTTING & BUILDING ENVELOPES PLAN

Call at least two full working days before you begin excavation
ARIZONA811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602) 263-1100

REVISIONS

NUM.	DESCRIPTION	DATE	BY

☐ FOR REVIEW ONLY
☐ FOR BID ONLY
☒ FOR APPROVAL ONLY
☒ FOR RECORDING ONLY
☐ FOR CONSTRUCTION ONLY
☐ FOR AS-BUILT ONLY

GRANITE BASIN ENGINEERING, INC.
1981 COMMERCE CENTER CIRCLE, SUITE B, PRESCOTT, ARIZONA 86301
PH (928) 717-0171 FAX (928) 717-0181
WWW.GRANITEBASINENGINEERING.COM

GHOST TREE AT PINE CANYON, LLC
8601 NORTH SCOTTSDALE ROAD, SUITE 335
SCOTTSDALE, ARIZONA 85253

FINAL PLAT FOR
GHOST TREE THREE AT PINE CANYON
SITE OVERVIEW

33861 THOMAS A. LIUZZO 8/30/24 REGISTERED LAND SURVEYOR

JOB:	21080
DATE:	08/13/24
SCALE:	AS SHOWN
DRAWN:	TL/TRL
DESIGN:	TS
CHECKED:	TL

1

SHEET 1 OF 2

FILE: Z:\Projects\PINE CANYON\PROJECTS\21080 GHOST TREE THREE\DWG\FPLAT\21080 FPLAT S1.dwg <<C3D_Imperial>>

PLOTTED: Aug 13, 2024–1:12pm

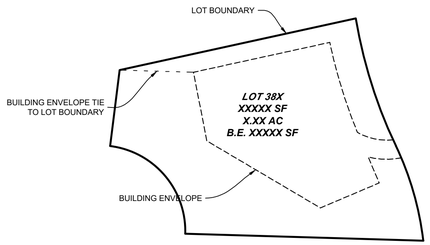
FINAL PLAT FOR

GHOST TREE THREE AT PINE CANYON

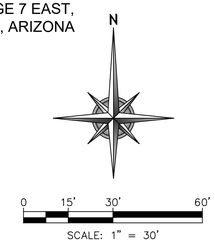
A MINOR SUBDIVISION BEING A REPLAT OF TRACT E GHOST TREE AT PINE CANYON

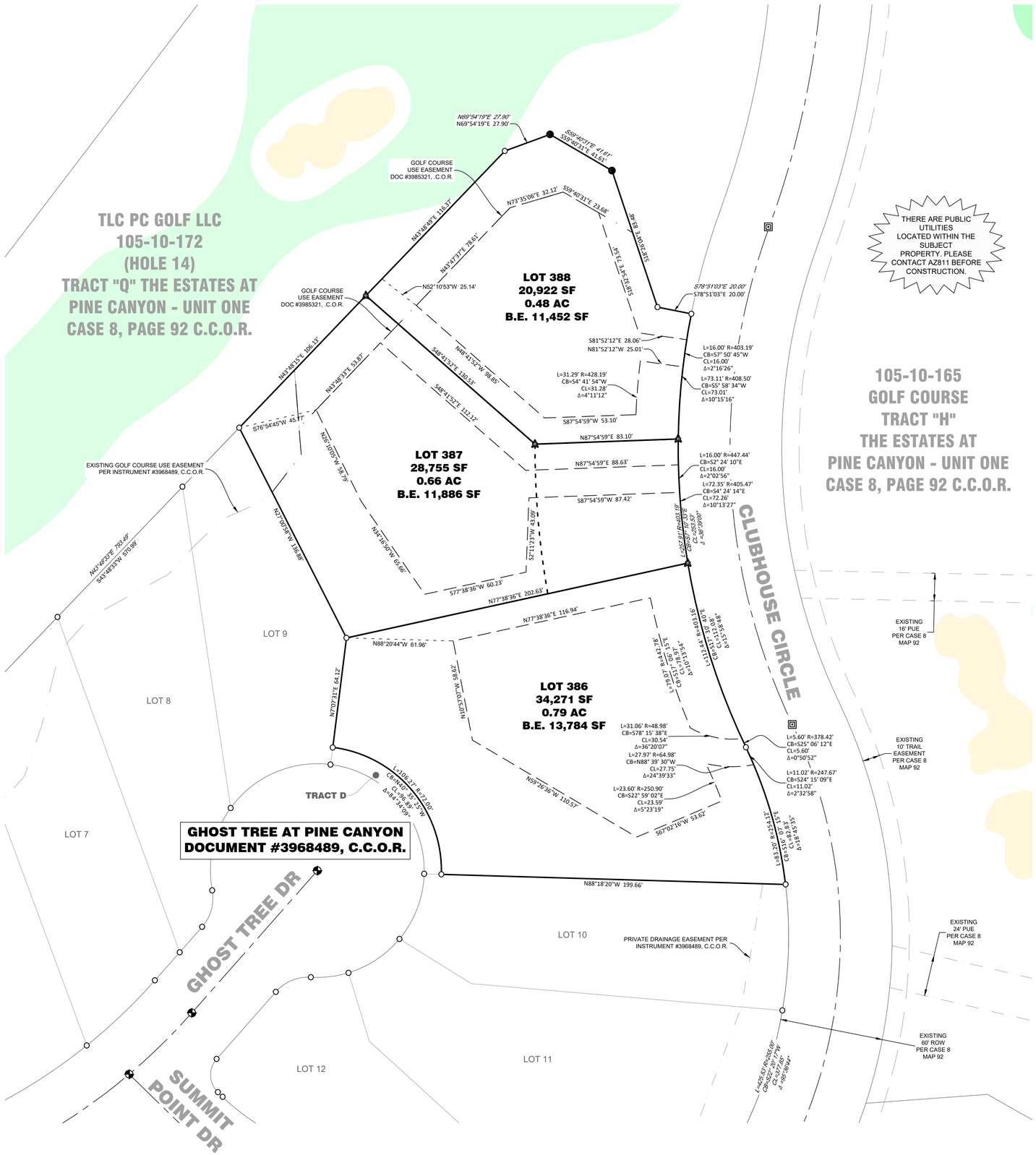
AS RECORDED AT DOCUMENT #3968489, C.C.O.R.

3201 SOUTH CLUBHOUSE CIRCLE, APN 105-10-206
LOCATED IN SECTION 34, TOWNSHIP 21 NORTH, RANGE 7 EAST,
GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA



TYPICAL BUILDING ENVELOPE DETAIL
SCALE: 1" = 60'





LEGEND

○	FOUND 1/2" REBAR MONUMENT WITH PLASTIC CAP MARKED RLS 33861
◉	1/2" REBAR WITH NO LEGIBLE MARKINGS
⊡	CENTERLINE MONUMENT CAPPED RLS 23372
◆	FOUND CENTERLINE MONUMENT WITH ALUMINUM CAP WITH MARKINGS RLS 33861
▲	SET 1/2" REBAR MONUMENT WITH PLASTIC CAP MARKED RLS 33861
S45°45'45"W 45.00'	PROPOSED LOT DATA BASED ON CALCULATIONS
S55°55'55"W 50.00'	RECORD DATA: RECEPTION #3968489 C.C.O.R.
	DRAINAGE EASEMENT
	SLOPE EASEMENT
	SEWER EASEMENT
	TRAIL EASEMENT
	PROJECT BOUNDARY
	RIGHT-OF-WAY
	ADJACENT PARCELS
7000	EXISTING INDEX CONTOUR
	INTERMEDIATE CONTOUR
	BUILDING ENVELOPES
	CENTERLINE
	GOLF COURSE USE EASEMENT

SLOPE DATA

RANGE	AREA	ALLOWABLE DISTURBANCE		INFRASTRUCTURE DISTURBANCE		BALANCE (ALLOWABLE LOT DISTURBANCE)	
(%)	(SF)	(%)	(SF)	(%)	(SF)	(%)	(SF)
17 - 24.99%	4,194	30%	1,258	0%	0	30%	1,258
25 - 34.99%	17,571	20%	3,514	0%	0	20%	3,514
> 35% (*)	0	-	-	-	-	-	-
TOTALS	21,765		4,772		0		4,772

FOREST RESOURCE PROTECTION DATA

FOREST RESOURCES	POINTS	%
PARENT PROPERTY TOTAL AVAILABLE FOREST RESOURCE CREDIT POINTS	287	100.00%
FOREST RESOURCE CREDIT POINTS, PROTECTED OUTSIDE OF BUILDING ENVELOPES, DERIVED FROM TREE SURVEY	114	39.72%
FOREST RESOURCE CREDIT POINTS DERIVED FROM PROTECTED STEEP SLOPES (OVER & ABOVE MINIMUM REQUIRED)	40	13.94%
TOTAL PROTECTED FOREST RESOURCE CREDIT POINTS	154	53.66%

Call at least two full working days before you begin excavation
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
In Maricopa County: (602) 263-1100

REVISIONS

NUM.	DESCRIPTION	DATE	BY

☐ FOR REVIEW ONLY
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GRANITE BASIN ENGINEERING, INC.
CIVIL ENGINEERING • PLANNING • SURVEYING
1501 COMMERCE CENTER BLVD. • FORT MOHAVE, ARIZONA 86427
PH: (928) 215-1171 • FAX: (928) 215-1181 • 1 (800) 215-1171
WWW.GRANITEBASINENGINEERING.COM

GHOST TREE AT PINE CANYON, LLC
8601 NORTH SCOTTSDALE ROAD, SUITE 335
SCOTTSDALE, ARIZONA 85253

FINAL PLAT FOR
GHOST TREE THREE AT PINE CANYON
LOTTING & BUILDING ENVELOPES PLAN



JOB:	21080
DATE:	08/13/24
SCALE:	AS SHOWN
DRAWN:	TL/TRL
DESIGN:	TS
CHECKED:	TL

2

SHEET 2 OF 2

FILE: Z:\Projects\PINE CANYON\PROJECTS\21080 GHOST TREE THREE\DWG\FPLAT\21080 FPLAT S2.dwg <<C3D_Imperial>>

CITY / SUBDIVIDER AGREEMENT
CITY OF FLAGSTAFF, ARIZONA

This Agreement is entered into by and between the CITY OF FLAGSTAFF, a municipal corporation duly created and existing under the laws of the State Arizona, hereinafter referred to as CITY; and TLCPC Land Investors, LLC _____ Subdivider, hereinafter referred to as SUBDIVIDER.

WITNESSETH

WHEREAS, TLC PC Land Investors (Subdivider) desires to subdivide property within the City of Flagstaff, Arizona known as Ghost Tree Three at Pine Canyon; and

WHEREAS, CITY is agreeable to accepting said subdivision as proposed; providing that the subdivider constructs the subdivision in accordance with City standards and as set forth in the approved preliminary plat, and while fulfilling the obligations set forth below, which the subdivider hereby assumes; and

WHEREAS, building permit(s) is (are) required and will be issued following execution of this agreement;

NOW, THEREFORE, in consideration of the subdivision and the mutual covenants of the parties hereinafter expressed, the parties hereto agree as follows:

1. SUBDIVIDER agrees to construct all improvements in conformance with the CITY'S Subdivision Regulations and the "General Construction, Standards and Specifications" of the CITY, and to employ a responsible supervisor.

2. SUBDIVIDER further agrees to dedicate all streets and rights-of-way to the CITY for public use and to offer all public improvements to the CITY for acceptance into the CITY system.

3. The CITY agrees to accept the Subdivision as platted and to accept ownership of public improvements upon their completion and approval by the CITY.

4. In the event that the CITY should be required to institute any action for the enforcement of this agreement, SUBDIVIDER, shall be required to pay a reasonable attorney's fee in addition to all other costs assessed in any such action.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on their own behalf and by the duly authorized officials and officers on the day and year herein written.

(Signed):

Subdivider/Title

Partner

Subdivider/Title

STATE OF ARIZONA)
) ss
County of Coconino)

SUBSCRIBED AND SWORN to before me this 11th day of April, 2024 by Kendra Newell.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

KENDRA LYNNE NEWELL
NOTARY PUBLIC - ARIZONA
YAVAPAI COUNTY
COMMISSION # 661967
MY COMMISSION EXPIRES
DECEMBER 20, 2027

Notary Public

My Commission expires: December 20, 2027

Dated this _____ day of _____ 20_____ in Flagstaff, Coconino County, Arizona.

By: _____
Mayor

ATTEST:

_____
City Clerk

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Ben Mejia, Planner

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Final Plat PZ-23-00027-02: Final replat of lots 23-24 and Tract E of the "Final Plat for Coconino Ridge at Pine Canyon"

STAFF RECOMMENDED ACTION:

Approve the final plat and authorize the Mayor to sign the plat when notified by staff that all conditions have been met and documents are ready for recording.

Executive Summary:

TLC PC Land Investors, LLC and Coconino Ridge at Pine Canyon, LLC request Final Plat approval for Final replat of lots 23-24 and Tract E of the "Final Plat for Coconino Ridge at Pine Canyon" located at 2460 S Pinyon Jay Dr, an existing 31 unit subdivision on 19.2 acres in the Single-Family Residential (R1) Zone. The site has a Resource Protection Overlay and is currently subdivided. It is located in the northeastern corner of the larger 660-acre Pine Canyon development.

Financial Impact:

There are no financial impacts associated with this Final Plat.

Policy Impact:

There are no policy impacts associated with this Final Plat.

Previous Council Decision or Community Discussion:

The final plat for Coconino Ridge at Pine Canyon was approved by Council in 2016. The replat request is to modify the approved plat to allow Tract E for use as private road. The preliminary plat for this replat was approved by Council on July 2, 2024.

Options and Alternatives to Recommended Action:

1. Approve the Final Plat with no conditions, as recommended by city staff.
2. Approve the Final Plat with conditions.
3. Deny the Final Plat based on non-compliance with the Zoning Code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure

Background and History:

In 2016, the City of Flagstaff approved the Coconino Ridge at Pine Canyon subdivision as a 32-lot subdivision within the R1 Zone. Since recordation of the plat, one parcel (Lot 32) has been combined with neighboring parcels. Currently, 31 lots exist within the subdivision. All areas in the subdivision not allocated as lots are reserved as tracts. Tract E was reserved as private open space, public utility easement, and private drainage easement. This Final Plat request is to replat the existing Coconino Ridge at Pine Canyon subdivision to reserve Tract E for private roads in addition to private drainage easement and public utility easement. The private open space reservation will be abandoned with this modification. Tract E will be increased in width to accommodate the road, and Lots 23 and 24 will be reduced in size. No new lots are proposed with this plat.

Connection to PBB Priorities and Objectives:

- Livable Community - Provide amenities and activities that support a healthy lifestyle
- Livable Community - Achieve a well-maintained community through comprehensive & equitable code compliance, & development that is compatible with community values.

Connection to Regional Plan:

- Policy LU.5.3. Promote compact development appropriate to and within the context of each area type: urban, suburban, and rural.
- Policy LU.5.1. Encourage development patterns within the designated growth boundaries to sustain efficient infrastructure projects and maintenance.

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

Connection to 10-Year Housing Plan:
N/A

Attachments: Final Plat

FINAL REPLAT OF LOTS 23-24 AND TRACT E OF THE "FINAL PLAT FOR COCONINO RIDGE AT PINE CANYON"

AS RECORDED IN INSTRUMENT 3775754, RECORDS OF COCONINO COUNTY
LOCATED IN PORTIONS OF SECTION 27 & 34, TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M. FLAGSTAFF, COCONINO COUNTY, ARIZONA

DEDICATION NOTE:
TRACT E TO BE RESERVED FOR THE HOME OWNERS ASSOCIATION AS PRIVATE ROADS, PRIVATE DRAINAGE EASEMENT, AND PUBLIC UTILITY EASEMENT.

NOTE: EXISTING OPEN SPACE OF TRACT E IS TO BE ABANDONED.

DEDICATION:

STATE OF ARIZONA
COUNTY OF COCONINO

KNOW ALL MEN BY THESE PRESENTS: COCONINO RIDGE AT PINE CANYON, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AND TLC PC LAND INVESTORS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, HEREINAFTER REFERED TO AS OWNERS, HEREBY PUBLISHES THIS PLAT AS AND FOR THE REPLAT OF LOTS 23-24 AND TRACT E OF COCONINO RIDGE AT PINE CANYON, A SUBDIVISION OF COCONINO RIDGE AT PINE CANYON INSTRUMENT 3775754, RECORDS OF COCONINO COUNTY. LOCATED IN PORTIONS OF SECTIONS 27 & 34, TOWNSHIP 21 NORTH, RANGE 7 EAST, G. & S.R.M., FLAGSTAFF, COCONINO COUNTY, ARIZONA, AS SHOWN PLATTED HEREON, AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATIONS AND GIVES THE DIMENSION AND MEASUREMENTS OF THE LOTS AND STREETS CONSTITUTING SAME AND THAT EACH LOT AND STREET SHALL BE KNOW BY THE NUMBER OR NAME GIVEN TO EACH RESPECTIVELY ON SAID PLAT AND HEREBY DEDICATIONS THE TRACTS AND EASEMENTS AS SHOWN ON SAID PLAT FOR THE PURPOSES SHOWN.

TRACT E IS HEREBY RESERVED BY OWNERS FOR THE HOMEOWNERS ASSOCIATION AS PRIVATE ROADS (TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION), AS PRIVATE DRAINAGE EASEMENT (TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION) AND PUBLIC UTILITY EASEMENT.

OWNERS HEREBY GRANT UNTO THE CITY OF FLAGSTAFF, A MUNICIPAL CORPORATION, A NON-EXCLUSIVE EASEMENT FOR PUBLIC UTILITY PURPOSES, UNDER, OVER AND ACROSS TRACT E. THE CITY SHALL HAVE THE RIGHT TO LOCATE, OPERATE, REPAIR, REPLACE, ALTER AND MAINTAIN UNDERGROUND PIPELINES AND UTILITY SERVICES OF ALL TYPES, AND SHALL HAVE THE RIGHT TO INGRESS AND EGRESS ACROSS SAID PROPERTY, AND MAY REMOVE ALTER OR MAINTAIN VEGETATION, IMPROVEMENTS, OR OBSTRUCTIONS WITHIN THE LIMITS OF THE REAL PROPERTY SUBJECT TO THIS EASEMENT THAT CONFLICT WITH THE PUBLIC UTILITY USES. THE HOMEOWNER'S ASSOCIATION SHALL REMAIN RESPONSIBLE FOR ANY ONGOING MAINTENANCE OF THE SURFACE OF THE REAL PROPERTY SUBJECT TO THIS EASEMENT. OWNERS HEREBY COVENANT TO INDEMNIFY AND SAVE HARMLESS THE CITY OF FLAGSTAFF, ITS EMPLOYEES, CONTRACTORS OR LICENSEES FROM ANY LIABILITIES FOR INJURIES OR DAMAGES TO PERSONS OR PROPERTY ARISING OUT OF THIS PUBLIC UTILITY EASEMENT.

IN WITNESS WHEREOF: COCONINO RIDGE AT PINE CANYON, LLC. HAS CAUSED ITS NAME TO BE SINGED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF ITS REPRESENTATIVE, THEREUNTO AUTHORIZED.

DONE AT _____, ARIZONA, THIS _____ DAY OF _____ 20___.

BY:_____
PETER BURGER, AUTHORIZED AGENT, COCONINO RIDGE AT PINE CANYON, LLC.

IN WITNESS WHEREOF: TLC PC LAND INVESTORS, LLC. HAS CAUSED ITS NAME TO BE SINGED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF ITS REPRESENTATIVE, THEREUNTO AUTHORIZED.

DONE AT _____, ARIZONA, THIS _____ DAY OF _____ 20___.

BY:_____
PETER BURGER, AUTHORIZEDAGENT, TLC PC LAND INVESTORS, LLC.

ACKNOWLEDGEMENT:

STATE OF ARIZONA
COCONINO COUNTY

ON THIS THE _____DAY OF _____ 20___, BEFORE ME, THE UNDERSIGNED PERSONALLY APPEARED, PETER BURGER, AUTHORIZED AGENT OF COCONINO RIDGE AT PINE CANYON, LLC. AND TLC PC LAND INVESTORS, LLC. WHO ACKNOWLEDGED BY SELF TO REPRESENT COCONINO RIDGE AT PINE CANYON, LLC. AND TLC PC LAND INVESTORS, LLC. AND THAT HE/SHED AS SUCH, BEING AUTHORIZED SO TO DO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS WHEREOF: I HEREUNTO SET FOR THE MY AND AND OFFICIAL SEAL

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

OCCUPANCY:

NO CERTIFICATE OF OCCUPANCY FOR ANY RESIDENCE MAY BE ISSUED NOR MAY ANY RESIDENCE ERECTED IN THIS TRACT BE OCCUPIED UNTI LTHE REQUIRED WATER, SEWER, AND ALL OTHER ESSENTIAL UTILITIES ARE INSTALLED AND AN ALL-WEATHER ACCESS ROADWAY TO THE RESIDENCE IS CONSTRUCTED AND APPROVED OR ACCEPTED BY THE CITY ENGINEER.

NOTES:

EXCEPT FOR CONSTRUCTION AND IMPROVEMENTS BY GOVERNMENTAL ENTITIES AND CERTIFIED PUBLIC UTILITIES, CONSTRUCTION AND IMPROVEMENTS WITH UTILITY EASEMENT SHALL BE LIMITED TO ONLY THE FOLLOWING:
A. REMOVABLE WOOD, WIRE, OR SECTION-TYPE FENCING
B. CONSTRUCTION, STRUCTURES, OR BUILDINGS EXPRESSLY APPROVED IN WRITING BY ALL PUBLIC UTILITIES WHICH USE OR SHALL USE THE UTILITY EASEMENT.

ALL BUILDING CONSTRUCTION, INCLUDING ACCESSORY BUILDINGS, SHALL BE LIMITED TO A SPECIFIC DEVELOPMENT ENVELOPE FOR EACH LOT AS SHOWN HEREON AND THIS BUILDABLE AREA IS LIMITED TO SETBACKS SHOWN.

ALL ON-LOT AREAS NOT DESIGNATED AS DEVELOPMENT ENVELOPES ARE TO BE MAINTEAINED AS PERPETUAL RESOURCE PROTECTION EASEMENTS AND BUFFERYARDS TO BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS (SEE SHEET 3 FOR INDIVIDUAL DEVELOPMENT ENVELOPES). ENVELOPES MAY BE RELOCATED WITHIN SETBACKS PROVIDING NO ADDITIONAL AREA ADDED.

CONSTRUCTION OF LANDSCAPING WITHIN CLEAR VIEW ZONES IS RESTRICTED PER THE CITY OF FLAGSTAFF ENGINEERING DESIGN & CONSTRUCTION STANDARDS & SPECIFICATIONS FOR NEW INFRASTRUCTURE (2012 EDITION) - SECTION 13-10-006-0002, INTERSECTION SIGHT TRIANGLES, CLEAR VIEW ZONES.

DRIVEWAY SLOPES SHALL BE IN ACCORDANCE WITH CITY OF FLAGSTAFF ORDIANCE NO. 2007-13.

FIRE APPARATUS ACCESS ROADS SHALL BE PROVIDED ON SITE WHEN ANY PORITON OF THE FACILITY OR BUILDING IS BEYOND 150 FEET FROM APPROVED FIRE APPARATUS ACCESS ROADWAYS AS MEASURED BY AN APPROVED ROUTE AROUND THE EXTERIOR OF BUILDING OR FACILITY. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE SUBSTITUTED FOR MEETING THIS REQUIREMENT WHEN APPROVED BY THE FIRE DEPARTMENT. CONFER WITH THE FLAGSTAFF FIRE DEPARTMENT FIRE PREVENTION OFFICER TO DETERMINE THE SPECIFIC MEASURE OF COMPLIANCE.

THE HOMEOWNERS ASSOCIATION SHALL BE SOLELY RESPONSIBLE FOR THE OPERATION, MAINTENANCE, AND LIABILITY FOR PRIVATE DETENTION FACILITIES AND PRIVATE DRAINAGEWAYS.

ACCESSORY BUILDINGS AND STRUCTURES SHALL EITHER BE CONSTRUCTED WITHIN THE INDIVIDUAL BUILDING ENVELOPES AS SHOWN OR THE INDIVIDUAL OWNER MUST DEMONSTRATE THROUGH A BUILDING PERMIT APPLICATION THAT NO FOREST RESOURCES OR SLOPE RESOURCE GREATER THAN 17% WILL BE REMOVED OR ENCROACHED UPON. ADDITIONALLY, THE BUILDING/STRUCTURE SHALL COMPLY WITH ALL CITY OF FLAGSTAFF REQUIREMENTS REGARDING THE LOCATION, SIZE AND CONSTRUCTION FOR SUCH BUILDING/STRUCTURE.

CITY OF FLAGSTAFF:
IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR RECORD BY THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA ON THE

_____ DAY OF _____, 20___

BY: _____
MAYOR

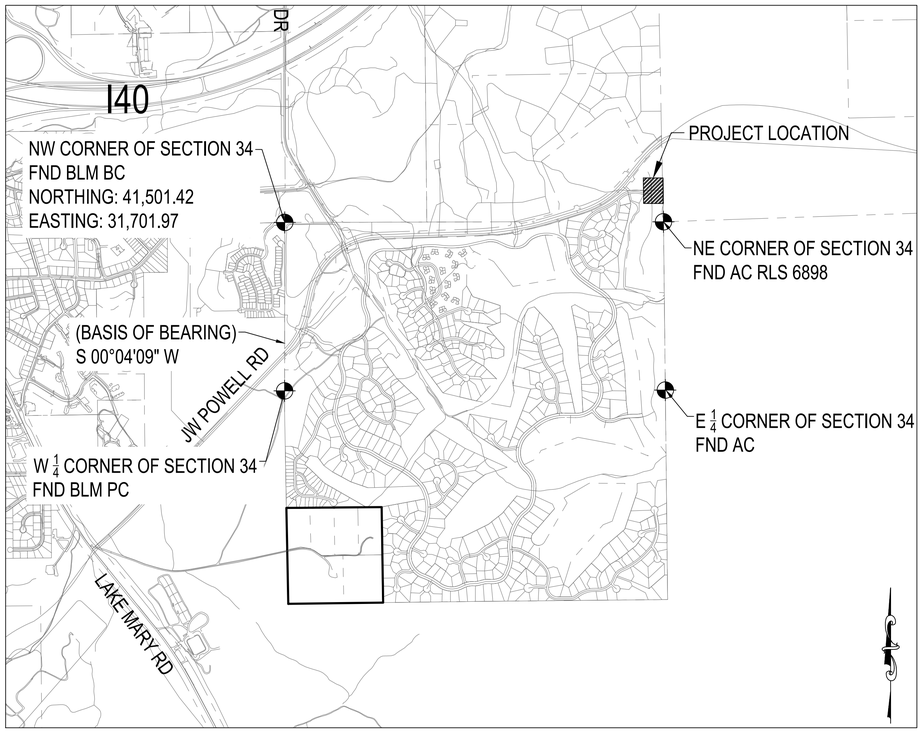
ATTEST: _____
CITY CLERK

IT IS HEREBY CERTIFIED THAT HIS PLAT HAS BEEN OFFICIALLY APPROVED FOR RECORD BY THE COMMUNITY DEVELOPMENT DIRECTOR AND CITY ENGINEER, CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA ON THE

_____ DAY OF _____, 20___

BY: _____
PLANNING DIRECTOR

BY: _____
CITY ENGINEER



LOCATION MAP

RESOURCE CALCULATIONS

VALUES PER COCONINO RIDGE AT PINE CANYON RECORD DRAWING, DATED 3/22/17, BY MOGOLLON ENGINEERING & SURVEYING INC. :
SLOPE RESOURCES
17% SLOPE = 109,618 SF TOTAL
30% = 32,885
DISTURBANCE = 10,572 SF
EXCESS 17% SLOPE = 22,313 SF

25% SLOPE
57,290 SF TOTAL
20% = 11,458
DISTURBANCE = 2,407 SF
EXCESS 25% SLOPE = 9,051 SF

35% SLOPE
NONE

SLOPE EXCESS = 31,364 SF

TREE RESOURCES
TOTAL SITE AREA = 836,511 SF (19.2 AC)
SITE AREA OUTSIDE OF SLOPE RESOURCES = 669,603 SF

DISTURBANCE
RIGHT-OF-WAY = 80,747 SF TREE AREA DISTURBED = 80, 408 SF
TREE AREA DISTURBED = 10,090 SF
EASEMENTS = 6,502 SF TREE AREA DISTURBED = 5,695 SF

SETBACKS
TOTAL SETBACK AREA = 277,177 SF
SETBACK AREA IN SLOPES = 3,520 SF
SETBACK AREA OUTSIDE OF SLOPE = 255,583 SF

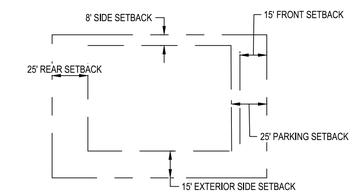
TOTAL DISTURBED TREE AREA = 351,776 SF
TOTAL UNDISTURBED TREE AREA = 321,490 SF

TREE RESOURCES

SITE AREA OUTSIDE OF SLOPE RESOURCES = 669,603 SF
AVERAGE TECHNIQUE PER 10-50.90
TOTAL DISTURBED AREA - 351,776 SF
TOTAL UNDISTURBED AREA - 321,490 SF
SLOPE EXCESS ADD BACK = 31,364 SF
TREE RESOURCE PROTECTED = 357,854 SF
RESOURCE PROTECTION FACTOR - 52.70%

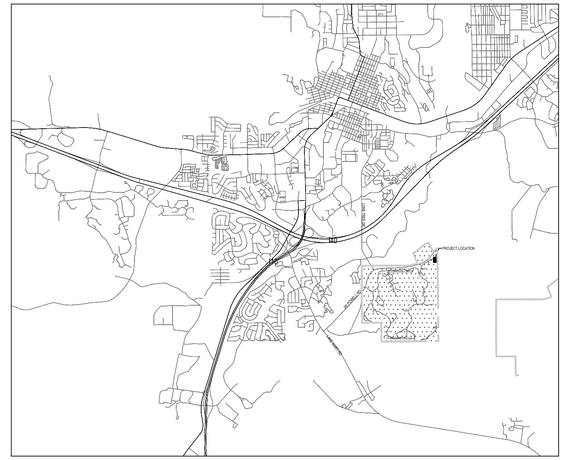
PER BUILDING ENVELOPE AMENDMENT LOT 19, INST. NO. 3933340:
CHANGES TO SETBACK = CHANGE TO DISTURBED AREA = -502 SF
CHANGE TO UNDISTURBED AREA = + 502 SF

PRELIMINARY REPLAT RESOURCE CALCULATION UPDATE:
SITE AREA OUTSIDE OF SLOPE RESOURCES: 669,603 SF
TOTAL DISTURBED PER RECORD DRAWINGS AND INST. NO 3933340: 351,274 SF
LOT 23, 24, AND TRACT E RECONFIGURATION ADDITIONAL DISTURBANCE = 8,982 SF
PROPOSED SLOPE AND DRAINAGE EASEMENT DISTURBANCE: 4,069 SF
TOTAL DISTURBED: 364,305 SF
TOTAL UNDISTURBED: 3045,298 SF
SLOPE EXCESS ADD BACK: 31,364 SF
TREE RESOURCE PROTECTED: 336,662 SF
RESOURCE PROTECTION FACTOR: 50.3%



PER FINAL PLAT FOR COCONINO RIDGE AT PINE CANYON:
SETBACKS MAY BE REDUCED FROM CITY ZONING DUE TO RESOURCE PROTECTION. REFER TO DESIGN STANDARDS AND C.C.&R.'S FOR MORE RESTRICTIVE SETBACKS. LOT DISTURBANCE INCLUDES, THE CONSTRUCTION OF THE DWELLINGS, DRIVEWAYS, UTILITY CORRIDORS, PATIOS, DECKS, ACCESSORY STRUCTURES AND ANY GRADING ACTIVITIES.

TYPICAL BUILDING SETBACKS PER FINAL PLAT FOR COCONINO RIDGE AT PINE CANYON
N.T.S.



VICINITY MAP
N.T.S.

OWNER/DEVELOPER:

COCONINO RIDGE AT PINE CANYON LLC
8601 N SCOTTSALE RD SUITE 335
SCOTTSDALE, AZ 85253
PH: (480) 498-3300

TLC PC LAND INVESTORS LLC
8601 N SCOTTSALE RD SUITE 335
SCOTTSDALE, AZ 85253
PH: (480) 498-3300

PREPARED BY:
THE WLB GROUP, INC.
FLAGSTAFF, AZ 86001
PH: (928) 779-1500
FAX: (928) 779-1501

ZONING INFORMATION:
EXISTING ZONING = SINGLE FAMILY RESIDENTIAL (R1)
PROPOSED ZONING = SINGLE FAMILY RESIDENTIAL (R1)

AREA INFORMATION:
GROSS AVERAGE = 0.88 AC±
NET AVERAGE = 0.88 AC±

SHEET INDEX

1	COVER SHEET
2	EXISTING CONDITIONS AND BOUNDARIES
3	PRELIMINARY REPLAT BOUNDARIES

BENCHMARK
BLM BRASS CAP AT THE NORTHWEST CORNER OF SECTION 34.

BASIS OF BEARING
S 00° 04' 09" W, 2647.38' FROM THE NORTHWEST CORNER OF SECTION 34 TO THE WEST QUATER CORNER OF SECTION 34, TOWNSHIP 21N, RANGE 7E OF THE GILA AND SALT RIVER MERIDAN, COCONINO COUNTY, ARIZONA.

UTILITY ACKNOWLEDGMENTS

ARIZONA PUBLIC SERVICE — DATE

MARTIN CONBOY — 4/15/2024
UNISOURCE ENERGY SERVICES — DATE

DANIEL GOETTE — 5/01/2024
LUMEN — DATE

JASON QUINLAN — 4/15/2024
OPTIMUM COMMUNICATIONS — DATE

SURVERORS CERTIFICATION:

I, TIMOTHY J GAUDETTE, HEREBY CERTIFY:

THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA, THAT MONUMENTS WERE FOUND OR SET AS NOTED HEREON AND THAT THE SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF,

AND THAT THE SURVEY SHOWN AND PLATTED HEREON WAS PERFORMED UNDER MY SUPERVISION.

_____
TIMOTHY J GAUDETTE RLS 45721

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811.com
Call 811 or click Arizona811.com

NO.	DATE:	ITEM:

REVISIONS

ENGINEERING • PLANNING • SURVEYING
LANDSCAPE ARCHITECTURE • URBAN DESIGN
OFFICE LOCATIONS:
TUCSON, PHOENIX, FLAGSTAFF, & LAS VEGAS, NV
500 N. BEAVER STREET, FLAGSTAFF, AZ 86001
PH:(928) 779-1500
The WLB Group INC.

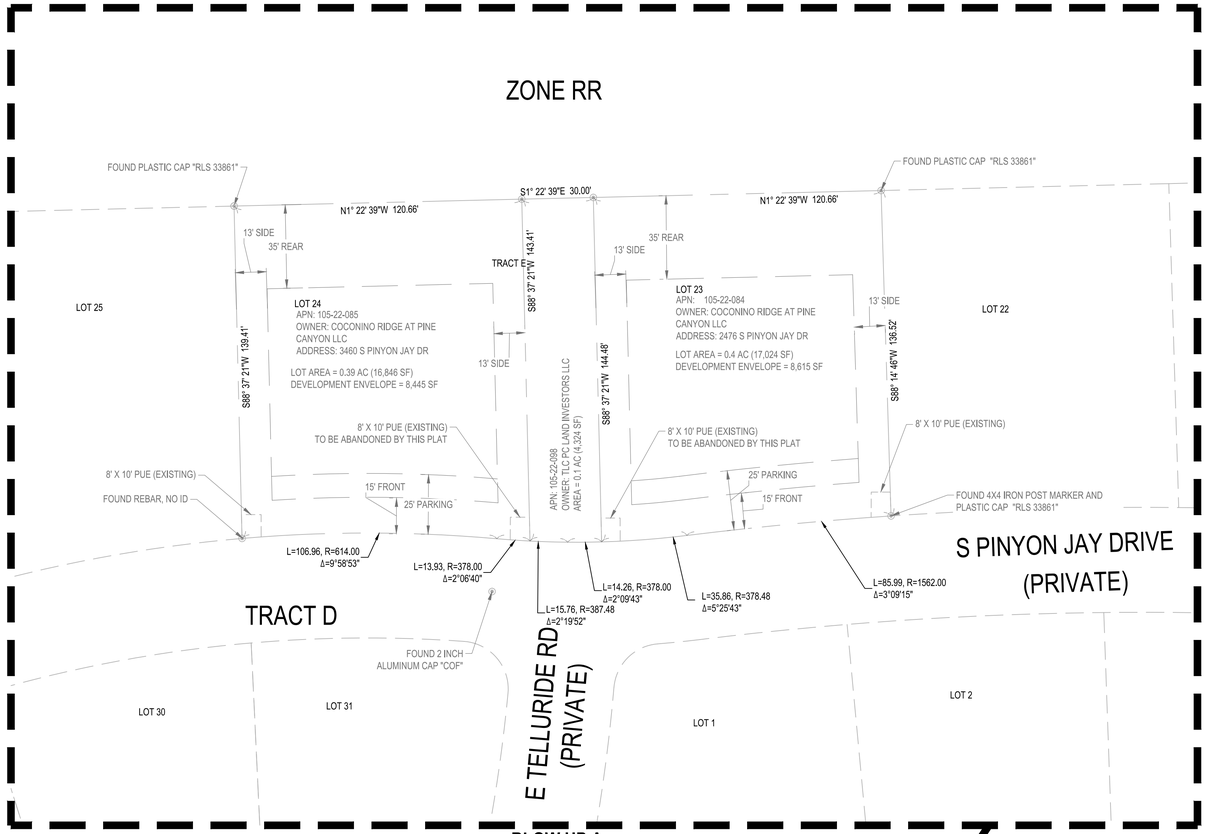
FINAL REPLAT
OF LOTS 23-24 AND TRACT E
COVER SHEET

Preliminary
Not For
Construction

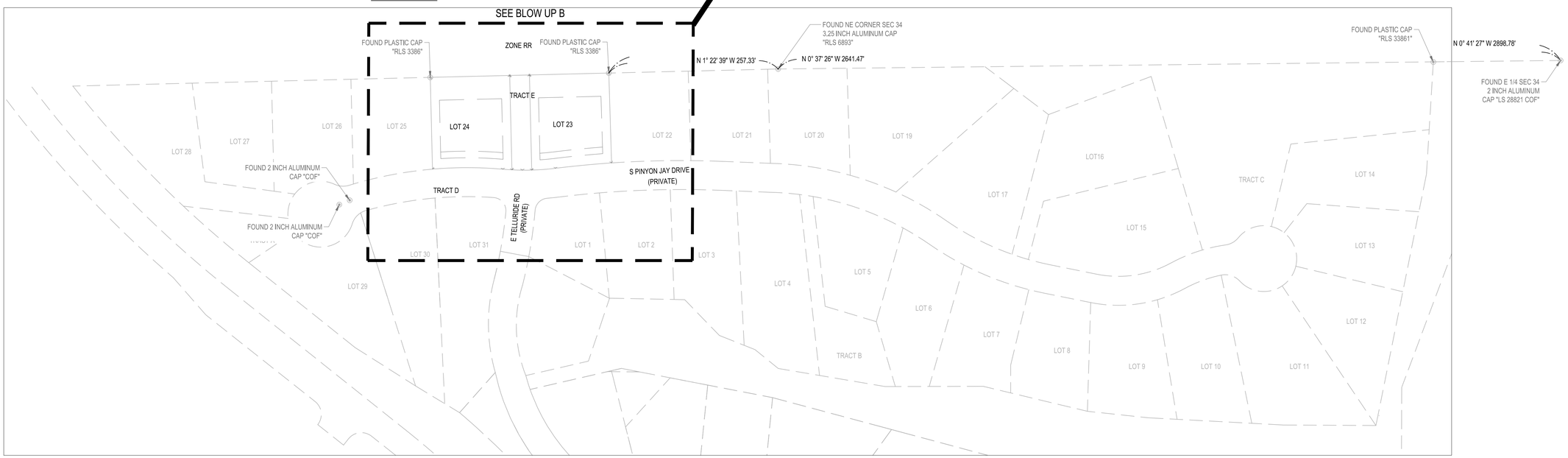
DESIGNED BY:	SB
DRAWN BY:	SB
CHECK BY:	BJ
DATE:	JUNE 2024

PROJECT NO.
322024A001

SHEET
1 OF 3



BLOW UP A



EXISTING CONDITIONS

LEGEND

- EXISTING PROPERTY BOUNDARY
- EXISTING DEVELOPMENT ENVELOPE
- EXISTING EASEMENT
- PROPOSED PROPERTY BOUNDARY
- PROPOSED DEVELOPMENT ENVELOPE
- PROPOSED EASEMENT
- EXISTING SEWER MANHOLE
- EXISTING WATER VALVE
- ELECTRIC TRANSFORMER
- FOUND MONUMENT AS NOTED
- SET MONUMENT
- CONTROL POINT
- TREE
- FENCE
- CONTOURS 2'
- CONTOURS 5'
- EXISTING LOTS AND TRACTS OF COCONINO RIDGE (NOT A PART)

NO.	DATE:	ITEM:	REVISIONS

The WLB Group INC.
ENGINEERING • PLANNING • SURVEYING
LANDSCAPE ARCHITECTURE • URBAN DESIGN
OFFICE LOCATIONS:
TUCSON, PHOENIX, FLAGSTAFF, & LAS VEGAS, NV
500 N. BEAVER STREET, FLAGSTAFF, AZ 86001
PH:(928) 779-5000

FINAL REPLAT
OF LOTS 23-24 AND TRACT E
EXISTING CONDITIONS
BOUNDARY

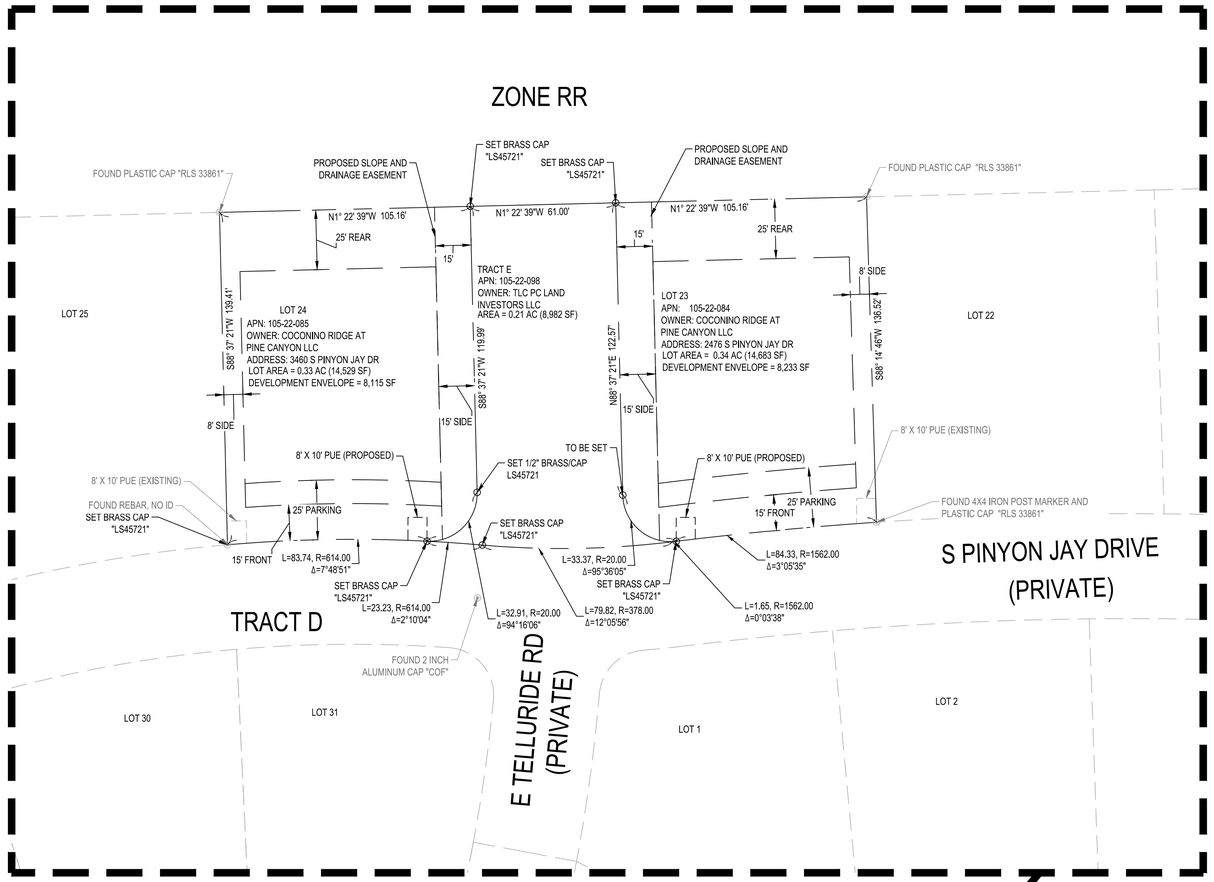
Preliminary
Not For
Construction

DESIGNED BY:	SB
DRAWN BY:	SB
CHECK BY:	BJ
DATE:	JUNE 2024

PROJECT NO.
322024A001

SHEET
2 OF 3

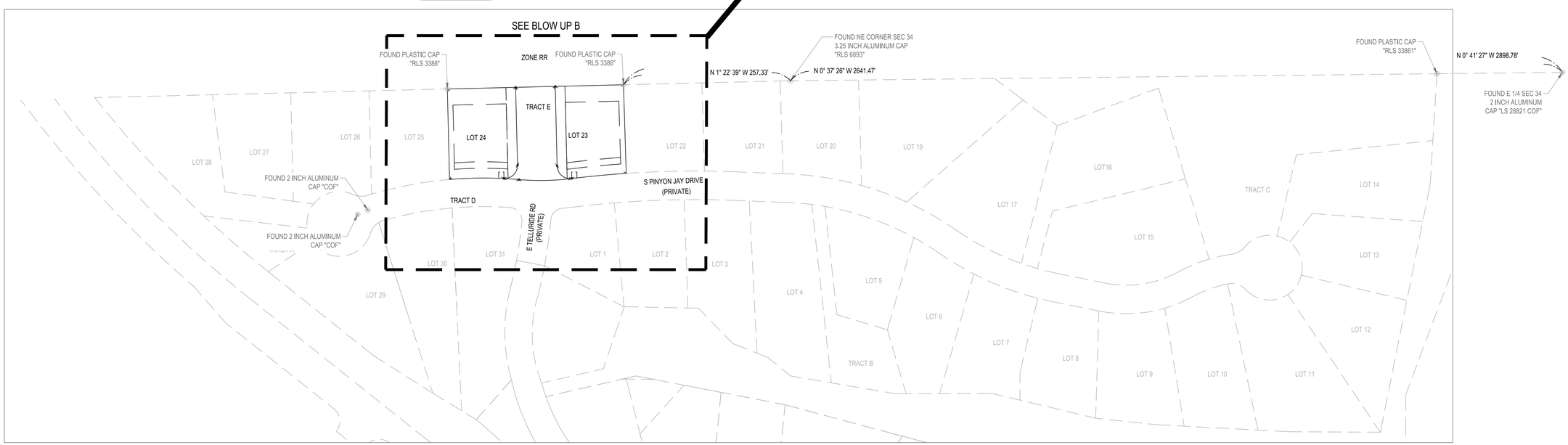
Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811
Call 811 or click Arizona811.com



LEGEND

- EXISTING PROPERTY BOUNDARY
- EXISTING DEVELOPMENT ENVELOPE
- EXISTING EASEMENT
- PROPOSED PROPERTY BOUNDARY
- PROPOSED DEVELOPMENT ENVELOPE
- PROPOSED EASEMENT
- EXISTING SEWER MANHOLE
- EXISTING WATER VALVE
- ELECTRIC TRANSFORMER
- FOUND MONUMENT AS NOTED
- SET MONUMENT
- CONTROL POINT
- TREE
- FENCE
- CONTOURS 2'
- CONTOURS 5'
- EXISTING LOTS AND TRACTS OF COCONINO RIDGE (NOT A PART)

BLOW UP B



PROPOSED CONDITIONS

GRAPHIC SCALE
80 0 40 80 160
HORIZONTAL SCALE 1"= 80'

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811
Call 811 or click Arizona811.com

NO.	DATE:	ITEM:
		REVISIONS

The WLB Group INC.
ENGINEERING • PLANNING • SURVEYING
LANDSCAPE ARCHITECTURE • URBAN DESIGN
OFFICE LOCATIONS:
TUCSON, PHOENIX, FLAGSTAFF, & LAS VEGAS, NV
500 N. BEAVER STREET, FLAGSTAFF, AZ 86001
PH:(928) 779-5000

FINAL REPLAT OF LOTS 23-24 AND TRACT E PRELIMINARY REPLAT BOUNDARY

Preliminary Not For Construction

DESIGNED BY:	SB
DRAWN BY:	SB
CHECK BY:	BJ
DATE:	JUNE 2024

PROJECT NO.
322024A001

SHEET
3 OF 3

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Jarrett Nelson, Public Works Project Manager

Co-Submitter: Sam Beckett

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Contract: First Amendment to the Street Maintenance Program 2024, 2025 & 2026 Construction Manager at Risk (CMAR) with C and E Paving & Grading, LLC to add GMP 1 - Phase 2 and increase the amount of the contract by $398,279.40.

STAFF RECOMMENDED ACTION:

1. Approve the First Amendment to the Street Maintenance Program 2024, 2025 & 2026 CMAR with C and E Paving & Grading, LLC to add GMP 1 - Phase 2 and increase the amount of the contract by $398,279.40; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Public Works Streets Section maintains over 700 lane miles of roadway surface infrastructure for the citizens, regional community members, and visitors. Roadways throughout the city vary in design and capacity. In addition to automobile travel, all modes of transportation are integrated and encouraged within the right of way. Modes of travels such as mass transit, bicycle, and pedestrian opportunities are prevalent and our Streets crews strive to provide transportation infrastructure that is well connected and as safe as possible for travel, regardless of the chosen mode. The City's annual Street Maintenance Overlay and Chip Seal Program is an effort to improve aging infrastructure within our existing transportation network. Planning efforts include an evaluation of the asphalt surface, edge treatments, recent overlay project sections, roads that meet maintenance need, and road stripe engineering. Once the identified needs are prioritized, Streets utilizes funding provided from two sources to address the needs. The first source of revenue is Highway User Revenue Funds (HURF), or what's commonly referred to as the gas tax, a state shared revenue. The second source of revenue provided is sales tax proceeds collected as a result of the 2014 voter approved Road Repair and Street Safety Program (RRSS). This Council action, if approved, will allow Streets to deliver the Annual Street Maintenance Fall 2024 Chip Seal scope utilizing local contractor C and E Paving & Grading, LLC and improve the community transportation infrastructure.

Financial Impact:

Project Name: Road Repair and Street Safety Chip Seal
Cost: $398,279.40
Account Number Budgeted: 040-06-162-3073-6-4443
FY Budgeted Amount: $2,100,000
Grant Funded: No
Funding Source: Highway User Revenue Fund

Policy Impact:

The award of the First Amendment to the Street Maintenance Program 2024, 2025 & 2026 CMAR with C and E Paving & Grading, LLC to add GMP 1 - Phase 2 will authorize the delivery of the chip seal portion of the City's Annual Street Maintenance and Overlay 2024 Program. The chip seal work will ensure that the City

is maintaining its streets and providing for a well-protected and increased overall condition index for our roadways. The City of Flagstaff community continues to support initiatives creating and maintaining quality infrastructure throughout our transportation network.

Previous Council Decision or Community Discussion:
The City Council has approved CMAR contracts in previous years for the annual street maintenance and overlay program. Transportation maintenance programs has been a topic of discussion in previous sessions. Direction and feedback has been provided in multiple forums, such as the goal setting process, the annual budgetary process, and community service delivery expectation discussions. Clear direction has been provided to maintain our transportation system, establish asset inventory, deliver capital renewal programs and meet the community expectations.

Options and Alternatives to Recommended Action:

1. Approve the First Amendment to the Street Maintenance Program 2024, 2025 & 2026 CMAR to add GMP 1 - Phase 2 execute a CMAR Contract with C and E Paving & Grading, LLC for a Guaranteed Maximum Price (GMP 1 - Phase 2) of $398,279.40.
2. Do not approve the First Amendment adding GMP 1 - Phase 2 and forego the chip seal portion of the program.
3. Conduct another formal procurement to provide chip seal services outside the current CMAR contract with C and E Paving & Grading, LLC.

Background and History:
The City has established an annual program to maintain existing street pavements. The program includes three major elements: non-structural upgrades of asphalt overlay, minor concrete repairs, accessibility improvements including sidewalk/ramp replacement and chip sealing. The citizens of Flagstaff approved the Road Repair and Street Safety Maintenance Program (RRSS) (Prop. 406). This is a dedicated sales tax providing funding of $100 million over 20 years. The program has been aggressively addressing capital projects that have been identified to be in a high state of disrepair on the front end of the program with strong support for annual maintenance until the sales tax sunsets in 2034. The overlay and chip seal street segments are selected after evaluation of the street condition using pavement management asset software. Each street pavement is assigned an overall condition index (OCI) based on the type and severity of the distress observed. A pavement that has no distress is given an OCI of 100. Each pavement distress such as cracking or roughness reduces the street's OCI. The street pavements are ranked by OCI and the pavements exhibiting the most severe distress are programmed for resurfacing treatments and improvements. Chip seal techniques are also used to protect recently overlaid sections to prolong the life of the asphalt surface.

The Arizona State Legislature has authorized the use of Alternative Project Delivery Methods (APDM) as a method of project delivery. Included in these delivery methods the City of Flagstaff can procure a construction team utilizing a Qualifications Based Selection process for construction services from a firm deemed most qualified to perform the work. The enabling legislation also allows for provision of multiple Guaranteed Maximum Prices (GMP) under a single procurement.

At the March 17, 2020, City Council meeting, Council approved the award of the initial Professional Engineering Design Phase Services contract for the 2020, 2021 and 2022 programs to Peak Engineering, Inc. Two contract extensions have been utilized in both 2023 and 2024. Working collaboratively with City staff and C and E Paving & Grading, LLC, the team develops the annual program, costing evaluation, project scheduling, design document review, prioritization of roadway segments, logistics, quantity estimating, and preparation of final construction documents.

Connection to PBB Priorities and Objectives:
The maintenance of the transportation system is a critical part of "high performing governance" that supports not only community members but first responders to deliver their services and is a high priority in PBB.

Connection to Regional Plan:

Transportation and Public Infrastructure - Deliver quality community assets and continue to advocate and implement a highly performing multi-modal transportation system.

Connection to Carbon Neutrality Plan:
The asphalt mix design used in the overlay portion and chip seal binders for the project has recycled asphalt incorporated into the mix, thus reducing the usage of new fossil fuels.

Connection to 10-Year Housing Plan:
None

Attachments: Plan Set
First Amendendment - Construction Phase 2 Chip Seal
Exhibit B - GMP 1 - Phase 2

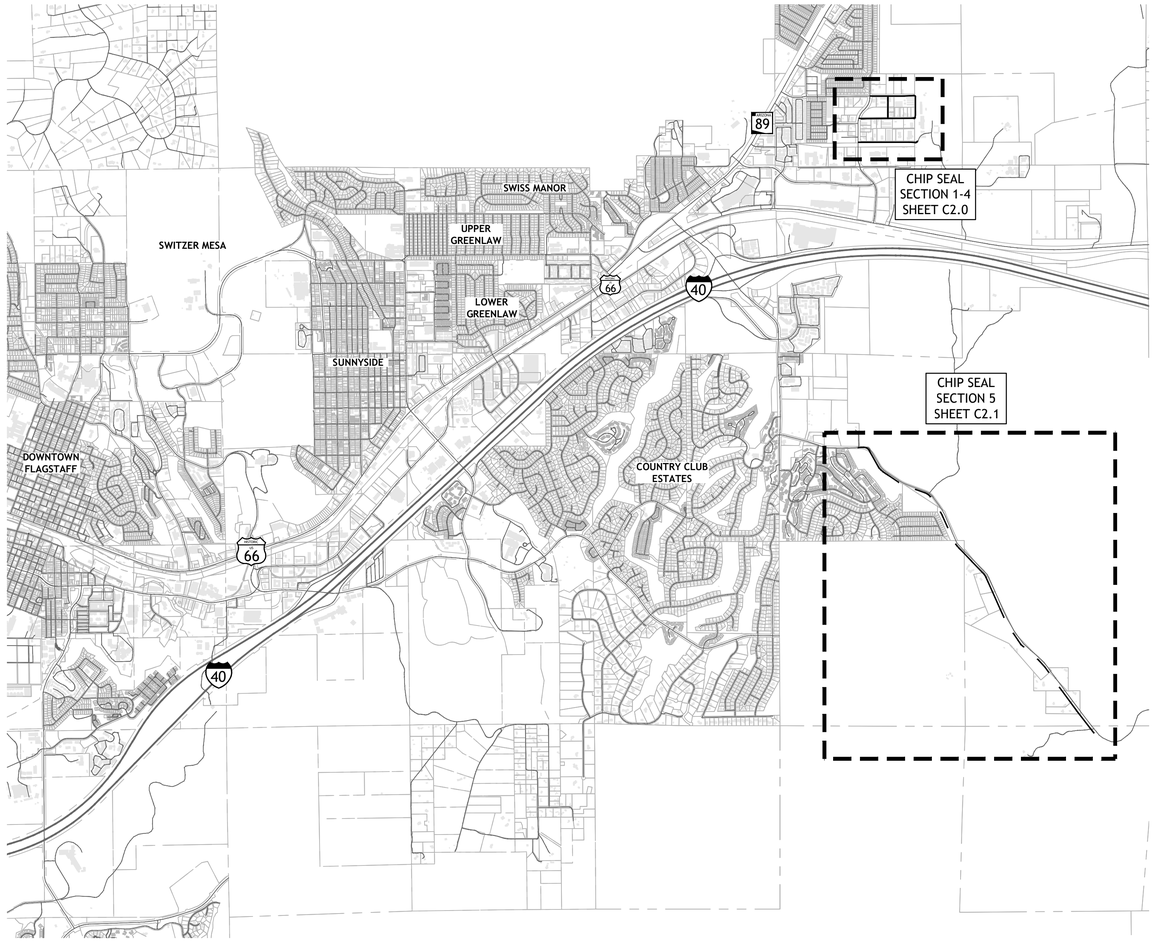
CITY OF FLAGSTAFF
2024 STREET MAINTENANCE PROGRAM
CHIP SEAL

COF PROJECT NUMBER PW24-0001

CIVIL IMPROVEMENTS SHEET INDEX

C1.0 COVER
C1.1 NOTES & DETAILS
C2.0-2.1 CHIP SEAL

VICINITY MAP
NOT TO SCALE



AREA MAP
NOT TO SCALE

OWNER
City of Flagstaff
Public Works Dept.
3200 W. Route 66
Flagstaff, AZ 86001
Contact: Jarrett Nelson, P.M.
Phone: 928-213-2112

CIVIL ENGINEER
Peak Engineering,Inc.
201 E Birch Ave, Suite 3
Flagstaff, AZ 86001
Contact: Thomas E. Smith, P.E.
Phone: (928) 774-4046

CITY OF FLAGSTAFF APPROVALS

City Engineer DATE

City Public Works Director DATE

Water Services Director DATE

UTILITY ACKNOWLEDGEMENTS

LUMEN DATE

UniSource Energy DATE

APS DATE

ALTICE DATE

FINAL 1 PLANS

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811
Call 811 or click Arizona811.com

DATE | DESCRIPTION | REVISION

201 E. Birch Ave.
Flagstaff, AZ 86001
(928) 774-4046
Peak ENGINEERING, INC.
Connecting Place to People

Professional Engineer (Civil) 42777 THOMAS E. SMITH Date Signed 6/25/24

CITY OF FLAGSTAFF
2024 STREET MAINTENANCE PROGRAM
CHIP SEAL
COVER
COF PROJECT NO. PW24-0001

JOB NO:24COF01 | BY:CBW/DMP
DATE: JUNE 2024 | CHECKED:TES

C1.0

P:\24COF\24COF01-Street Maintenance\03 CAD\24COF01-SHEETS CHIP.dwg, 6/25/2024 9:21:57 AM, AutoCAD PDF (General-LINES MERGE-NO LAYERS).pc3, ARCH full bleed D (24.00 x 36.00 Inches), 1:1

ENGINEER'S GENERAL NOTES

The work shall be done in accordance with the most current edition(s) of the following specifications and these plans.

- City of Flagstaff (COF) Engineering Design & Construction Standards
- Maricopa Association of Governments (MAG): Uniform Standard Specifications & Standard Details for Public Works Construction
- Manual on Uniform Traffic Control Devices (MUTCD)
- Arizona Department of Transportation Standard Specifications for Road and Bridge Construction

It is the Contractor's responsibility to obtain copies of the above Standards, Specifications and Details as well as all other standards and specifications referenced by or necessary for interpreting these plans. The Contractor is not relieved of responsibility for making complete and accurate on-site determinations of the locations of all utilities, structures and field conditions, which may affect the progress of the work.

PERMITS. The Contractor is responsible for determining what permits are required for the work and obtaining, at his own expense, the permits required unless otherwise noted in the Special Provisions. Permitting includes compliance with the Arizona Department of Environmental Quality (ADEQ) Arizona Pollutant Discharge Elimination System (AZPDES) Construction General Permit. The Contractor is responsible for filing a Notice of Intent (NOI) and Notice of Termination (NOT) in accordance with AZPDES requirements.

UTILITIES. Underground utilities shown are approximate and were determined from field measurements, construction plans, record plans, or utility maps furnished by others. The Contractor is responsible for determining the actual locations of all underground lines that may affect the work. The Contractor is responsible for notifying appropriate utility companies prior to construction commencing. The number to call is 811 or online at www.arizona811.com. The Contractor shall allow 2 working days after Arizona811 is notified before starting any excavation work in the proximity of buried utilities.
Where the plans call for connecting new structures to existing underground pipes or structures, the Contractor is responsible for determining the exact sizes, types and locations of existing underground improvements and furnishing the materials necessary for making the required connections.
At least 48 hours prior notice is required before disrupting utility service to make connections. The notice must include the exact time of disruption and the expected duration of loss of service.

QUANTITIES. The quantities shown are approximate and do not necessarily reflect bid schedule items. The Contractor is responsible for independently estimating work quantities prior to bidding. Payment will be based on bid schedule items.

TRAFFIC CONTROL. The Contractor is responsible for providing any necessary traffic control devices for vehicle, bicycle and pedestrian traffic affected by the construction.

STORMWATER MANAGEMENT. Adequate drainage, erosion and sediment control measures, best management practices (BMPs), and/or other stormwater management facilities shall be provided and maintained at all times during construction. The Contractor is responsible for damages to adjacent property and/or the construction site caused by his or her failure to provide and maintain adequate drainage and erosion/sediment control for the construction area.

Refer to the AZPDES Construction General Permit and ADEQ website for guidance, BMPs and reporting requirements: http://www.azdeq.gov/node/524

CITY OF FLAGSTAFF GENERAL NOTES

1. Approval of these plans by the City Engineer is for a one year period, subsequent to the date of approval. If construction work is not started within the one (1) year period, or has been discontinued for any reason for longer than one (1) year, the plans shall be resubmitted for review and re-approval.
2. Plan review by the City does not extend to material quantities shown on the plans.
3. A public works permit, issued by the City, is required for all work in City rights-of-way or easements and for construction of any improvements intended to become public property.
4. The City shall be notified twenty-four (24) hours prior to beginning different phases of construction so that City Inspectors may be scheduled.
5. All materials and workmanship shall comply with Title 13, Engineering Design Standards and Specifications for New Infrastructure, current "MAG Uniform Standard Specifications and Details for Public Works Construction,"the City of Flagstaff Stormwater Design Manual, and with generally accepted engineering design and construction practice. All work and materials, which do not conform to the standards and specifications, are subject to removal and replacement at the contractor's expense. The contractor is responsible for reviewing Chapter 13-21, which makes minor modifications to certain MAG Specifications and details.
6. Any work performed without the knowledge and approval of the City Engineer or his authorized representative is subject to removal and replacement at the contractor's expense.
7. The City Engineer or his authorized representative may suspend the work by written notice when, in his judgment, progress is unsatisfactory, work being done is unauthorized or defective, weather conditions are unsuitable, or there is danger to the public health or safety.
8. The City Engineer may order any or all materials used in the work to be tested according to the American Association of State Highway and Transportation Officials (AASHTO) and the American Society for Testing and Materials (ASTM) Standards. The Contractor shall, at his expense, supply all samples required for testing.
9. Access that meets Section 13-13-004-0001, Fire Access, shall be in place and approved before and at all times during onsite combustible construction and/or prior to issuance of building permits in new subdivisions. Fire Department and Engineering Section approval is required for obstruction of access or water system shutdown.
10. The contractor shall be responsible for maintenance of the streets and of partially completed portions of the work until final acceptance of the work. The contractor shall submit to the City Engineer for approval a construction schedule for any streets required to be closed or partially closed for the construction activity. The contractor shall reopen the streets no later than the opening date shown on the construction schedule or upon order of the City Engineer. The regulation and control of construction traffic shall be as directed by the City Engineer or his authorized representative.
11. Approval of a portion of the work in progress does not guarantee its final acceptance. Testing and evaluation may continue until written final acceptance of a complete workable unit. Any defects which appear in the work within one (1) year from the date of acceptance and which are due to improper workmanship or inferior materials supplied shall be corrected by or at the expense of the owner/developer or the contractor.
12. Acceptance of completed public improvements will not be given until defective or unauthorized work is removed, and final clean-up is complete.
13. Location of underground utilities before work is begun is to be accomplished in accordance with A.R.S. Section 40-360.22.
14. If work is done on private property in relation to a project constructed under these standards, the contractor will provide the City with written authorization from the property owner to do so.
15. The establishment and use of temporary construction yards shall conform to the current City zoning code standards for temporary uses.
16. All excavated material shall be disposed of in accordance with applicable City codes and regulations. The contractor shall obtain all required City approvals and permits as deemed necessary by the City to dispose of excavated material.
17. All construction staking shall be the responsibility of the contractor/developer and performed under the direct supervision of a registered land surveyor or civil engineer.
18. All traffic sign sheeting shall be Type VIII as designed by ASTM D4956-07e1 Standard Specifications for Retroreflective Sheeting for Traffic Control, unless specified otherwise on the construction plans.
19. When the construction plans specify graffiti control on bridges or other structures, the contractor shall seal the structure first using Monochem Aquaseal ME 12 and then apply Monochem Permashield, Sacrificial Graffiti Control System (or approved equal).
20. All areas disturbed during construction shall be stabilized and reseeded in accordance with Chapter 13-17. In the event that the construction activity disturbs more than one (1) acre, a stormwater pollution prevention plan (SWPPP) shall be prepared in order to obtain a construction general permit from ADEQ. (Ord. 2017-22, Rep&ReEn, 07/05/2017)

CITY OF FLAGSTAFF PAVING NOTES

A. Exact point of matching termination and overlay, if necessary, shall be determined in the field by the City Engineer or his authorized representative. When a longitudinal joint associated with a trench path, pavement matchup or other occurs on a street that includes a bike lane, the joint shall be located outside the bike lane.
B. No job will be considered complete until:
   1. All curbs, pavements, sidewalks, catch basins, storm drains, and manholes have been cleaned of all dirt and debris;
   2. Survey monuments are installed and stamped; and
   3. All frames, covers, and valve boxes are adjusted to grade.
C. No paving construction shall be started until all utility lines are completed and approved under proposed paved areas.
D. Base course will not be placed until subgrade has been approved by the City Engineer or his authorized representative.
E. The location of all water valves, fire hydrants, and manholes must at all times during construction be referenced and made accessible to the City.
F. Utility facilities in conflict with this work will be relocated by the permittee or the utility owner. This activity shall be coordinated with the owner of the utility to prevent any unnecessary interruption of service to existing customers.
G. Existing street name signs, traffic signs and devices associated with the project shall be maintained during construction and relocated by the contractor as shown on the approved plans.
H. Any changes or additions to pavement markings caused by pavement overlay, chip seal, or installation of underground facilities shall be shown on the approved plans.
I. On projects where the contractor causes excessive damage to an existing paved street or there are multiple street cuts (maximum of four (4) in five hundred (500) feet) an asphalt overlay shall be required.
J. A prime coat is not required unless so specified in the soils and pavement report and/or shown on the plans.
K. All curb and gutter, sidewalk, driveways, and sidewalk ramps shall be constructed on a minimum three (3) inches of aggregate base course (ABC). The ABC shall be constructed in accordance with MAG Section 310, and shall be compacted to ninety-five percent (95%) relative density. All precast structures such as manhole bases, catch basins, and box culverts shall be constructed on a minimum of three (3) inches of ABC.
L. Permanent Pavement Markings.
   1. Longitudinal pavement markings shall be installed in accordance with Section 13-16-006-0001.
   2. Transverse pavement markings such as stop bars, crosswalks, arrows, and legends shall be installed in accordance with Section 13-16-006-0002.
M. Temporary Pavement Markings.
   1. Temporary pavement markings, when approved, shall be installed in accordance with Sections 13-16-006-0001 and 13-16-006-0002.

NOTES:
   1. The use of temporary markings is strongly discouraged and may only be used with prior approval. When it is used, the contractor must be available to restripe as needed until the permanent markings can be installed.
   2. When it is impracticable for the contractor to provide permanent markings, the City Public Works Department may install the markings on behalf of the contract provided the fee for the work is agreed upon and paid for in advance.

N. The maximum thickness of a single lift of pavement shall be four (4) inches. (Ord. 2017-22, Rep&ReEn, 07/05/2017)

ABBREVIATIONS

AC	ASPHALTIC CONCRETE PAVEMENT
ACP	ASBESTOS CEMENT PIPE
ADOT	ARIZONA DEPARTMENT OF TRANSPORTATION
APN	ASSESSORS PARCEL NUMBER
BC	TOP BACK OF CURB
BO	BLOW-OFF
BP	BEGIN POINT ALIGNMENT
BR	BOTTOM OF RAMP
BS	BOTTOM OF STAIR
BW	BOTTOM OF WALL
C&G	CURB & GUTTER
CL	CENTERLINE
CMP	CORRUGATED METAL PIPE
COF	CITY OF FLAGSTAFF
COMM	COMMERCIAL
D/W	DRIVEWAY
E	EASTING
EG	EXISTING GRADE
EL - ELEV	ELEVATION
EP	END POINT ALIGNMENT
EX	EXISTING
FC	FACE OF CURB
FFE	FINISHED FLOOR ELEVATION
FG	FINISHED GRADE
GB	GRADE BREAK
HDPE	HIGH DENSITY POLYETHYLENE
INV	INVERT
LEN	LENGTH
LPS	LOW PRESSURE SODIUM
LT - L	LEFT
MAC	MODIFIED ASPHALTIC CONCRETE
MAG	MARICOPA ASSOCIATION OF GOVERNMENTS
MAX	MAXIMUM
MB	MAIL BOX
ME	MATCH EXISTING
MIN	MINIMUM
MP	MID POINT (CURVE)
N	NORTHING
NA	NOT APPLICABLE
OFS	OFFSET
PC	POINT OF CURVATURE
PCC	POINT OF COMPOUND CURVATURE
PCCP	PORTLAND CEMENT CONCRETE PAVEMENT
PRC	POINT OF REVERSE CURVATURE
PRV	PRESSURE RELIEF VALVE
PT	POINT OF TANGENCY
PVC	POINT OF VERTICAL CURVATURE
PVI	POINT OF VERTICAL INTERSECTION
PVT	POINT OF VERTICAL TANGENCY
RAD - R	RADIUS
RCP	REINFORCED CONCRETE PIPE
RES	RESIDENTIAL
ROW - R/W	RIGHT OF WAY
RS	RESTRIPE
RT - R	RIGHT
S	SIGN
SD	STORM DRAIN
SRP	SPIRAL RIBBED PIPE
SS	SANITARY SEWER
STA	STATION
SW	SIDEWALK
TC	TOP OF CURB
TR	TOP OF RAMP
TS	TOP OF STAIR
TW	TOP OF WALL
VG	VALLEY GUTTER
WL	WATER LINE
WM	WATER METER
WV	WATER VALVE

FINAL 1 PLANS

Contact Arizona 811 at least two full working days before you begin excavation
Call 811 or click Arizona811.com

REVISION	DESCRIPTION	DATE

201 E. Birch Ave.
Flagstaff, AZ 86001
(928) 774-4046

Peak ENGINEERING, INC.
Connecting Place to People

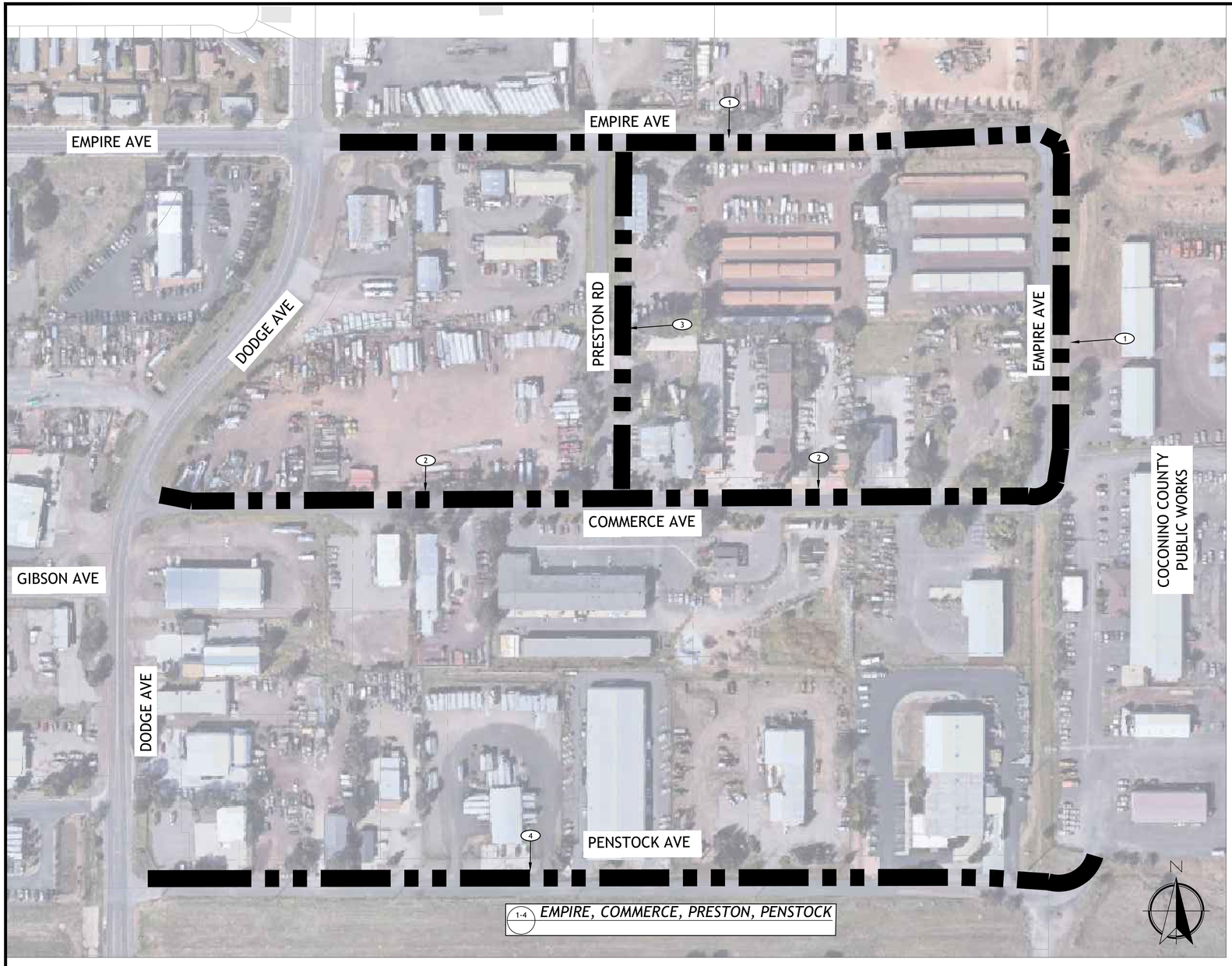
CERTIFICATE NO. 42777 THOMAS E. SMITH — DATE SIGNED: JUNE 2024 — REGISTERED PROFESSIONAL ENGINEER (CIVIL)

CITY OF FLAGSTAFF
2024 STREET MAINTENANCE PROGRAM
CHIP SEAL
NOTES & DETAILS
COF PROJECT NO. PW24-0001

JOB NO:24COF01 | BY:CBW/DMP
DATE: JUNE 2024 | CHECKED:TES

C1.1

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LEGEND

CHIP SEAL (X)

ABBREVIATIONS

DBL CS - DOUBLE CHIP SEAL

Map ID	Street Name	Start	End	Length (APROX.)	Width (APROX.)	AREA (MEASURED)	Treatment
				(LF)	(LF)	(SY)	
1	EMPIRE AVE.	DODGE AVE.	COMMERCE AVE.	1,882.0	24.8	5,357	DBL CS
2	COMMERCE AVE.	DODGE AVE.	COCO. COUNTY PUBLIC WORKS	1,622.0	27.2	4,907	DBL CS
3	PRESTON RD.	EMPIRE AVE.	COMMERCE AVE.	621.0	18.8	1,298	DBL CS
4	PENSTOCK AVE.	DODGE AVE.	COCO. COUNTY PUBLIC WORKS	1,725.0	27.9	5,262	DBL CS
5	OLD WALNUT CANYON RD.	6100 E OLD WALNUT CANYON DR	COTTONWOOD DR.	11,724.0	21.9	28,510	DBL CS

GRAPHIC SCALE 1" = 100'

100 0 100 200 300

FINAL 1 PLANS

Contact Arizona 811 at least two full working days before you begin excavation

ARIZONA811

Call 811 or click Arizona811.com

REVISION	DESCRIPTION	DATE

201 E. Birch Ave.
Flagstaff, AZ 86001
(928) 774-4046

Peak ENGINEERING, INC.
Connecting Place to People

CERTIFICATE NO. 42777 THOMAS E. SMITH

Date Signed 7/1/24

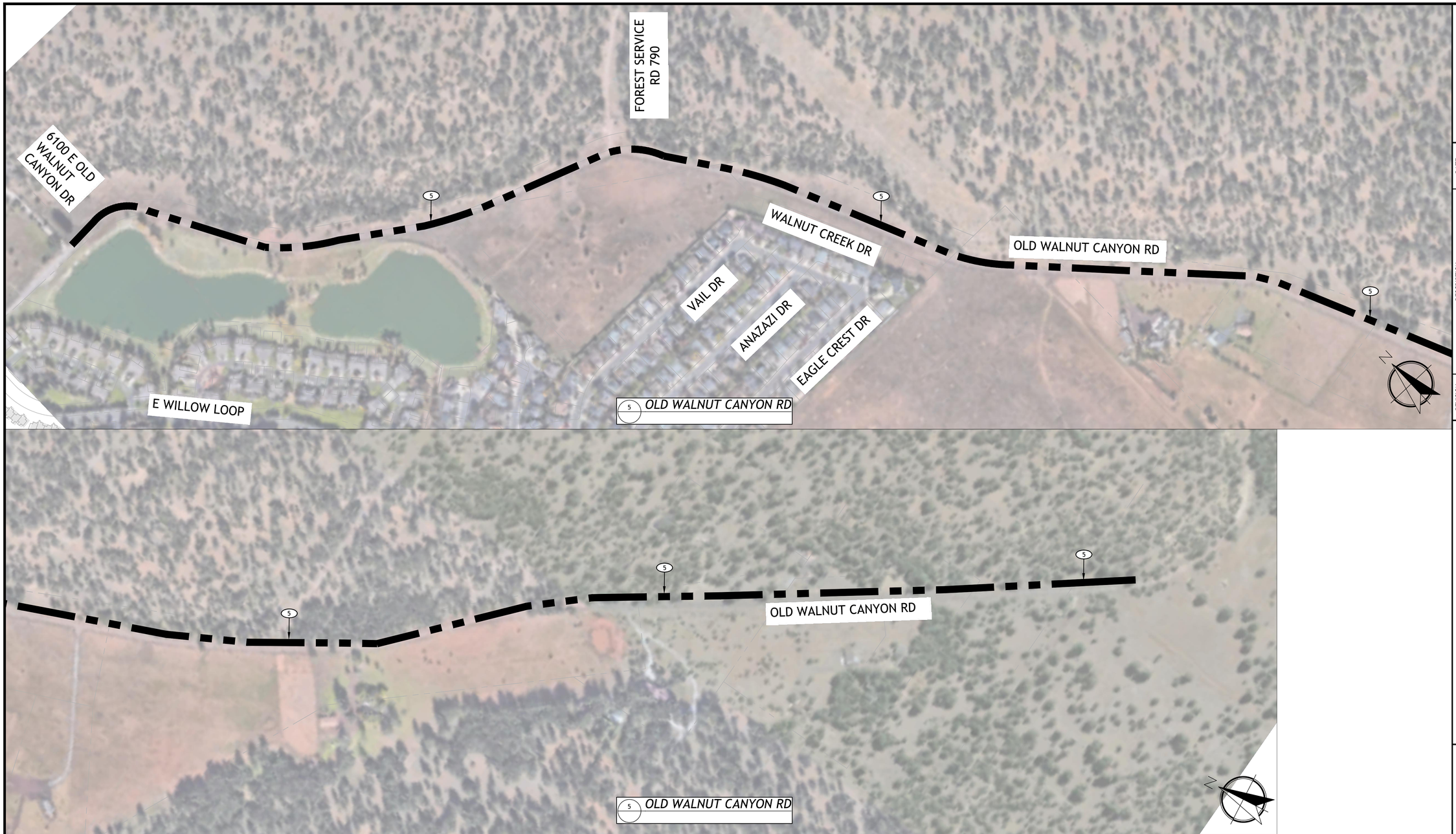
CITY OF FLAGSTAFF
2024 STREET MAINTENANCE PROGRAM
CHIP SEAL

COF PROJECT NO. PW24-0001

JOB NO:24COF01 | BY:CBW/DMP

DATE: JUNE 2024 | CHECKED:TES

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LEGEND

CHIP SEAL (X)

ABBREVIATIONS

DBL CS - DOUBLE CHIP SEAL

Map ID	Street Name	Start	End	Length (APROX.)	Width (APROX.)	AREA (MEASURED)	Treatment
				(LF)	(LF)	(SY)	
1	EMPIRE AVE.	DODGE AVE.	COMMERCE AVE.	1,882.0	24.8	5,357	DBL CS
2	COMMERCE AVE.	DODGE AVE.	COCO. COUNTY PUBLIC WORKS	1,622.0	27.2	4,907	DBL CS
3	PRESTON RD.	EMPIRE AVE.	COMMERCE AVE.	621.0	18.8	1,298	DBL CS
4	PENSTOCK AVE.	DODGE AVE.	COCO. COUNTY PUBLIC WORKS	1,725.0	27.9	5,262	DBL CS
5	OLD WALNUT CANYON RD.	6100 E OLD WALNUT CANYON DR	COTTONWOOD DR.	11,724.0	21.9	28,510	DBL CS

GRAPHIC SCALE 1" = 200'

200 0 200 400 600

FINAL 1 PLANS

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811
Call 811 or click Arizona811.com

REVISION	DESCRIPTION	DATE

201 E. Birch Ave.
Flagstaff, AZ 86001
(928) 774-4046

Peak ENGINEERING, INC.
Connecting Place to People

Registered Professional Engineer (Civil)
42777
THOMAS E. SMITH
DATE SIGNED 7/26/24

CITY OF FLAGSTAFF
2024 STREET MAINTENANCE PROGRAM
CHIP SEAL

COF PROJECT NO. PW24-0001

BY: CBW/DMP | CHECKED: TES
JOB NO: 24COF01 | DATE: JUNE 2024

C2.1

FIRST AMENDMENT

Street Maintenance Program 2024, 2025 & 2026
Construction Manager at Risk

Construction Phase Services Agreement
GMP 1 – Phase 2
Chip Seal

Project No. PW24-0001
Agreement No. 2024-65

This First Amendment ("First Amendment") to the fully executed Construction Phase Services Phase 1 - Agreement No. 2024-65 dated July 14, 2023 (the "Agreement") for the City of Flagstaff Street Maintenance Program 2024, 2025 & 2026 (the "Projects") is made and entered into this ____ day of _____, 2024, by and between the City of Flagstaff, an Arizona municipal corporation ("City"), and C and E Paving & Grading, L.L.C., an Arizona Limited Liability Company ("Construction Manager at Risk" or "CMAR").

The Parties to the Agreement, hereby agree to the following First Amendment:

A. Pursuant to Article 5 – Contract Price, Section 5.2, Exhibit B – is amended to include GMP 1 – Phase 2 – Chip Seal, dated July 12, 2024, 13 pages (attached hereto).

B. CMAR's GMP 1 – Phase 2 is for the chip seal at various locations in the Project and shall total **three hundred ninety-eight thousand, two hundred seventy-nine dollars and forty cents ($398,279.40).**

C. The total Contract Price for the complete performance of work under the Agreement, as amended by this First Amendment, shall be **six million, seven hundred seventy-four thousand, three hundred eighty-one dollars and sixty cents ($6,774,381.60).**

D. All other provisions of the Agreement shall remain unchanged in full force and effect.

(Signatures on Following Page)

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their duly authorized representatives as of the date first written above. This First Amendment will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

City of Flagstaff

By:_____
Greg Clifton, City Manager

Dated:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

C and E Paving & Grading, L.L.C.

By:_____

Title:_____

Dated:_____

EXHIBIT B - GMP 1 - PHASE 2

GMP SUMMARY 2024

STREET MAINTENANCE PROGRAM

PROJECT NO:

PW24-0001

Phase 2 - Chip Seal

GMP SUMMARY

PROJECT NAME:	City of Flagstaff Street Maintenance Program 2024
PROJECT NUMBER:	PW24-0001 **(PHASE 2 / CHIP SEAL)**
LAST UPDATED:	7/12/2024
OWNER(S):	City of Flagstaff
BILLNG ADDRESS:	211 West Aspen Avenue
JOB SITE ADDRESS:	various locations -
OWNER PHONE:	(928) 779-7685

C and E
PAVING & GRADING L.L.C.

GMP SUMMARY					
A	COST OF THE WORK (LABOR, MATERIALS, EQUIPMENT)				$317,701.20
B	CM@RISK'S CONTINGENCY				$0.00
	INDIRECT COSTS			RATE	$317,701.20
C	CONSTRUCTION FEE			4.8%	$19,117.41
D	GENERAL CONDITIONS			9.8%	$39,031.38
	D1	PAYMENT AND PERFORMANCE BOND	$2,501.19	0.628%	
	D2	INSURANCE	$4,938.66	1.24%	
E	SALES TAX		(9.181)	.05631577	$22,429.41
			F. TOTAL GMP		$398,279.40
			G. OWNER'S CONTINGENCY		$0.00
			H. CONTRACT AMOUNT		$398,279.40

CITY OF FLAGSTAFF
GENERAL CONDITIONS ESTIMATE

PROJECT NAME:	City of Flagstaff Street Maintenance Program - 2024
PROJECT NUMBER:	PW24-0001 **(PHASE 2 / CHIP SEAL)**
LAST UPDATED:	7/12/2024
OWNER(S):	City of Flagstaff
BILLNG ADDRESS:	211 West Aspen Avenue
JOB SITE ADDRESS:	various locations
OWNER PHONE:	(928) 779-7685

C and E
PAVING & GRADING L.L.C.

PHASE #		CATEGORY DESCRIPTION	NOTES / SCOPE	BUDGET
General Requirements				
1		VEHICLE / FUEL ALLOWANCE		$5,203.00
1		PROJECT MANAGER		$6,945.00
1		SUPERINTENDENT		$5,696.00
1		OFFICE PERSONNEL		$970.03
1		OFFICE SUPPLIES AND EQUIPMENT		$282.00
1		SITE MECHANIC & SERVICE TRUCK		$3,295.00
1		TEMP SANITARY FACILITIES		$160.00
1		ADDITIONAL PUBLIC NOTICES AND DELIVERY/ LIME / CONCRETE PLASTIC		$0.00
		SURVEY		$0.00
1		MOBILIZATION		$4,062.00
1		WARRANTY RESERVE	1.25% OF PROJECT	$4,978.49
1		GL INSURANCE	1.24% OF PROJECT	$4,938.66
1		PERFORMANCE BOND	.0062827% OF PROJECT	$2,501.20
TOTAL				$39,031.38

COST SCHEDULE OF VALUES

Empire / Commerce / Preston / Penstock

2024 COF STREETS

PHASE 2 / CHIP SEAL (DOUBLE) *Schedule of Values*

NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	COST
1	BITUMINOUS MATERIAL (CRS-2P)	54.0	T	$946.00	$51,084.00
2	COVER MATERIAL (CM-11)	446.0	T	$121.50	$54,189.00
3	FOG SEAL	16,824.0	S.Y.	$0.85	$14,300.40
4	TRAFFIC CONTROL	1.0	LS	$18,000.00	$18,000.00

TOTAL COST=	$137,573.40

Old Walnut Canyon Road

2024 COF STREETS

PHASE 2 / CHIP SEAL (DOUBLE) *Schedule of Values*

NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	COST
1	BITUMINOUS MATERIAL (CRS-2P)	91.0	T	$835.00	$75,985.00
2	COVER MATERIAL (CM-11)	770.0	T	$95.40	$73,458.00
3	TRAFFIC CONTROL	28,510.0	LS	$0.48	$13,684.80
4	TRAFFIC CONTROL	1.0	LS	$17,000.00	$17,000.00

TOTAL COST=	$180,127.80

Empire / Commerce / Preston / Penstock

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
1	BITUMINOUS MATERIAL (CRS-2P)	SUBCONTRACTOR	54.0	T	$308.00	$16,632.00	
		MATERIALS		T	$638.00	$34,452.00	
		EQUIPMENT					
		LABOR					
			54.0	T	$946.00	Total:	$51,084.00
2	COVER MATERIAL (CM-11)	SUBCONTRACTOR		T	$0.00	$0.00	
		MATERIALS	446.0		$60.00	$26,760.00	
		EQUIPMENT			$45.00	$20,070.00	
		LABOR			$16.50	$7,359.00	
			446.0	T	$121.50	Total:	$54,189.00
3	FOG SEAL	SUBCONTRACTOR	1	LS	$11,420.00	$11,420.00	
		MATERIALS			$2,880.40	$2,880.40	
		EQUIPMENT					
		LABOR					
			1	LS	$14,300.40	Total:	$14,300.40
3	TRAFFIC CONTROL	SUBCONTRACTOR	1	LS	$18,000.00	$18,000.00	
		MATERIALS					
		EQUIPMENT					
		LABOR					
			1	LS	$18,000.00	Total:	$18,000.00

Total: $137,573.40

C and E
PAVING & GRADING
L.L.C.

Old Walnut Canyon Road

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
1	BITUMINOUS MATERIAL (CRS-2P)	SUBCONTRACTOR	91.0	T	$197.00	$17,927.00	
		MATERIALS		T	$638.00	$58,058.00	
		EQUIPMENT					
		LABOR					
			91.0	T	$835.00	Total:	$75,985.00
2	COVER MATERIAL (CM-11)	SUBCONTRACTOR					
		MATERIALS	770.0	T	$60.00	$46,200.00	
		EQUIPMENT			$25.40	$19,558.00	
		LABOR			$10.00	$7,700.00	
			770.0		$95.40	Total:	$73,458.00
3	FOG SEAL	SUBCONTRACTOR	1	LS	$8,884.80	$8,884.80	
		MATERIALS			$4,800.00	$4,800.00	
		EQUIPMENT					
		LABOR					
			1	LS	$13,684.80	Total:	$13,684.80
3	TRAFFIC CONTROL	SUBCONTRACTOR	1	LS	$17,000.00	$17,000.00	
		MATERIALS					
		EQUIPMENT					
		LABOR					
			1	LS	$17,000.00	Total:	$17,000.00

Total: $180,127.80

C and E PAVING & GRADING L.L.C.

LIST OF PLANS AND SPECIFICATIONS

Flagstaff Street Maintenance Program - 2024
Peak Engineering, Inc. (928) 774-4046

Project No: PW24-0001

PHASE 2 / Chip Seal

Drawing No.	DRAWING TITLE	RELEASE DATE
C1.0	Cover Sheet	June 2024
C1.1	Notes and Details	June 2024
C2.0	Chip Seal Streets	June 2024
C2.1	Chip Seal Streets	June 2024

Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction General Provisions

City of Flagstaff Amendments to Maricopa Association of Governments General Provisions

Peak Engineering, Inc. Special Provisions

C and E
PAVING & GRADING
L.L.C.

LIST

OF

CLARIFICATIONS

AND

ASSUMPTIONS

Project No: PW24-0001

Clarifications and Assumptions

City of Flagstaff Street Maintenance Program – 2024

1. It is assumed that City of Flagstaff team members will assist the contractor in identifying and marking the stop and start areas for pavement milling and chip seal.
2. If cross-street approaches are to be overlaid, the Engineer shall outline the location and extent of work on cross-streets prior to beginning the work.
3. We realize that no potable water will be utilized on this project. We will need to obtain a permit (no fee) at the Wildcat Hill Waste Water Treatment Plant and will be responsible for complying with all permit requirements.
4. The January 2024 ADOT Index was used to construct the GMP Asphalt prices for this project. Adjustments may have to be made during construction with variances in the Index.
5. It is assumed that during the term of this contract; 2023 MAG and C.O.F. Specifications will govern.
6. The City of Flagstaff will furnish all necessary quality control testing for this project.
7. (a): Excess Aggregate Chip will be picked up with Street Sweepers on Empire, Commerce, Preston and Penstock one time upon completion of Chip Seal.
   (b): Excess Aggregate Chip on Old Walnut Canyon Road will be removed with side kick brooms to shoulder one time upon completion of Chip Seal.

PROJECT

MASTER

SCHEDULE

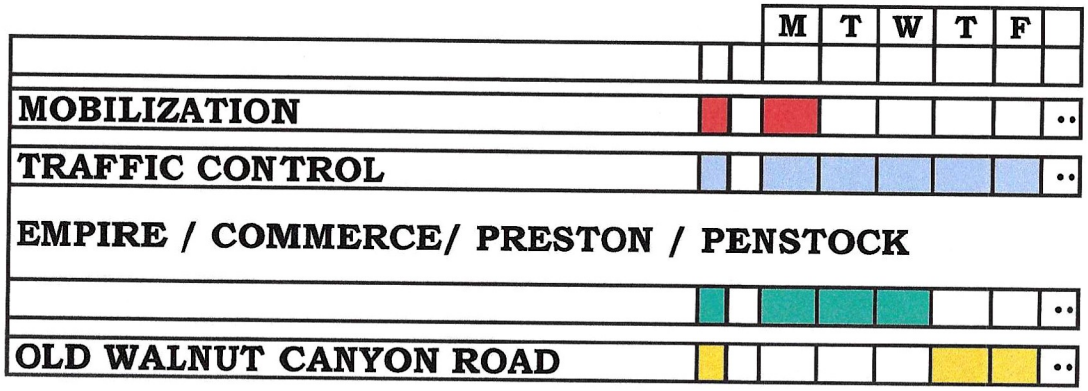
C and E Paving & Grading L.L.C.

CITY OF FLAGSTAFF
2024 CMAR MAINTENANCE PROGRAM
PW24-0001

CHIP SEAL/ PHASE TWO

WEEK 1

Tentative Schedule



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sarah Langley, Public Affairs Director

Co-Submitter: Patrick Brown

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Rejection of All Proposals: Website and/or Community Engagement Platform

STAFF RECOMMENDED ACTION:

Reject all proposals received in response to the Request for Proposals (RFP) MS2024-119 solicitation for Website and/or Community Engagement Platform.

Executive Summary:

A RFP was launched in the spring of 2024 to allow staff to gain a better understanding of available providers of municipal website and/ or community engagement platform services. A cross-divisional group of staff served as members of the evaluation panel and reviewed all proposals. After review of all proposals and existing personnel resources, it was determined that no proposals met the City's needs for website and/or community engagement platform services and rejection of the proposals would be in the best interest of the City. In compliance with the Procurement Code Manual, the responses to RFP MS2024-1119 must be formally rejected by the City Council.

Staff have instead outlined an alternative approach to continuously improve the City's website and community engagement products. For the website, staff plan to remain with the same website provider and purchase consulting services to undertake large content cleanup and user experience projects to improve the function of the City's website. Staff will also undertake a redesign project with our current website provider once the City's new logo is finalized. For the community engagement platform, a cross-divisional group of staff will review written quotes from relevant service providers and direct select a product. This approach allows City staff to review proposals from a wider number of providers of community engagement platforms and apps, some of which did not respond to the RFP. Staff are confident that this alternative approach will result in the highest quality website and community engagement platform possible for the City.

Financial Impact:

None

Policy Impact:

None

Previous Council Decision or Community Discussion:

None

Options and Alternatives to Recommended Action:

1. Do not reject all proposals and direct staff to select a contractor from the vendors who responded.

Background and History:

Purchasing staff posted Request for Proposals MS2024-119 for a vendor to construct a Website and/or Community Engagement Platform on the PlanetBids website on February 1, 2024. The RFP was advertised in the Arizona Daily Sun on February 6 and February 13, 2024. On March 5, 2024, 15 proposals were received. Purchasing reviewed the proposals and deemed them responsive and responsible. A selection committee of seven (7) staff members evaluated the fifteen (15) proposals and met to discuss the proposals. The selection committee determined that software products that were being proposed did not fully meet the needs of the City and elected to reject all proposals. City staff has determined to pursue a different strategy.

Pursuant to Article 15.4 of the City of Flagstaff Procurement Code Manual, *"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."*

Connection to PBB Priorities and Objectives:
-High Performing Governance

Connection to Regional Plan:
N/A

Connection to Carbon Neutrality Plan:
N/A

Connection to 10-Year Housing Plan:
N/A

Connection to Division Specific Plan:
N/A

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: CJ Perry, Information Technology Director

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Approval of Contract: Fiber Network Project - Award of Design-Build Services Contract to Wecom, LLC

STAFF RECOMMENDED ACTION:

1. Award the Design-Build Services Contract to Wecom, LLC; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The City has been looking for ways to improve not only its own fiber network, but also improve broadband competition and availability throughout the Flagstaff community.

In March 2024, the City issued a Request for Statement of Qualifications (RSOQ) to identify the most qualified provider for not only a city fiber network, but also construction of a fiber network throughout the Flagstaff community and immediate surrounds. The intent is to meet the City's internal needs, as well as the needs of the community for expanded broadband offerings. In exchange, the City is able to pay approximately $2 million towards design and construction costs for the City Fiber Network, and will allow use of its excess capacity in City conduit (both existing conduit and certain new conduit being installed as part of ongoing capital improvement projects).

This was a competitive solicitation and the City received several responses. A 5-member evaluation committee, comprising City staff and community partners, reviewed the submissions and selected Wecom Fiber as the most qualified provider. A copy of Wecom Fiber's response to the solicitation is attached. Wecom Fiber intends to construct a fiber network throughout the Flagstaff community and immediate surrounds. The City Fiber Network will be installed along some of the same routes.

Contract Approval

The City Council is asked to consider the award of a Design-Build Contract to Wecom, LLC, doing business as Wecom Fiber, for the design and construction of a City Fiber Network, The City Fiber Network will connect approximately 35 City facilities and approximately 45 City traffic signal lights, and extend approximately 9 miles throughout the City. The City Fiber Network will provide opportunities for future Smart City Initiatives.

The scope of work for the Contract is being approved in phases. City Council is being asked to approve the design phase first. City Council will then later be asked to approve contract amendment(s) for construction. The parties are still in negotiations over the overall financial deal, which is more complex as the City will be paying less than the actual costs of construction of the City Fiber Network and offering in kind contributions and/or credits against otherwise applicable license and permit fees in exchange. The Contract (including the scope of work for the design phase) will be attached prior to the City Council meeting.

Additional contracts that will be needed to complete the overall transaction include a license for use of the public rights-of-way, and lease for use of City conduit. These will be presented at a future City Council

meeting for consideration.

Financial Impact:
The City has budgeted up to $2,000,000 in FY2024-25 Budget in account 001-01-014-0044-1-4407 and 001-09-402-6321-1-4407 which have been set aside over the past few years dedicated to fiber construction. As we move into construction, we expect to expend the entire $2,000,000.

The City will provide access to City-owned conduit as an in-kind contribution in exchange for conduit and fiber in locations, the City does not have infrastructure. The City may also negotiate right-of-way fees as an in-kind contribution towards the project cost as part of future agreements.

Policy Impact:
This project supports both our federal and state legislative priorities by increasing rural broadband access and capacity to encourage and develop economic activity, including allowing for remote education, business attraction, revenue creation, and the attraction of remote workers.

Previous Council Decision or Community Discussion:
For the last several years, Council has provided American Rescue Plan Act (ARPA) funding for fiber with the intent of utilizing the funding as a grant match. As the latest infrastructure grants came out, rules required the City to partner with an Internet Service Providor (ISP) to qualify for the grants. The RSOQ was intended to find an ISP to work with in order to provide fiber to the community utilizing private capital and federal grants as available.

Options and Alternatives to Recommended Action:
The City could continue to build our existing conduit. This would be at a much slower pace and would not benefit the community for many years.

Background and History:
The Procurement staff ran a formal solicitation through a request for statement of qualifications on the PlanetBids from 1/15/2024 to 3/19/2024. Published on Saturday, January 27th, 2024 and Saturday, February 3rd, 2024 in the Arizona Daily Sun. The solicitation pulled three responsive statements. A team of six evaluators scored t6he statements to determine which firm was most qualified to work with the City. The following is the final scoring. Wecom was determined to be the most advantageous contractor to work with the City in this project.
Wecom - 506
Allo - 411
Entry Point - 350

Connection to PBB Priorities and Objectives:

- Implement and communicate innovative and efficient local government programs, new ideas, and best practices
- 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
- Provide, manage, and maintain effective infrastructure for multimodal and active transportation
- Attract employers that provide high quality jobs and have a low impact on infrastructure and natural resources

Connection to Regional Plan:
Goal CC.5. Support and promote art, science, and education resources for all to experience.
Goal LU.1. Invest in existing neighborhoods and activity centers for the purpose of developing complete, and connected places.
Goal LU.7. Provide for public services and infrastructure.

Goal PF.2. Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Connection to Carbon Neutrality Plan:
While this project doesn't directly impact the Carbon Neutrality Plan, many of the strategies require connectivity or data collection to be successful.

Connection to 10-Year Housing Plan:
While this project doesn't directly impact the 10-Year Housing Plan, it does provide for lower cost broadband availability which increases opportunities for employement and reduces monthly costs for families in Flagstaff.

Attachments: Presentation
Wecom Response to RSOQ
Wecom Design Services $1K Quote
Contract

Fiber Project

Design/Build Contract (Design Phase)

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

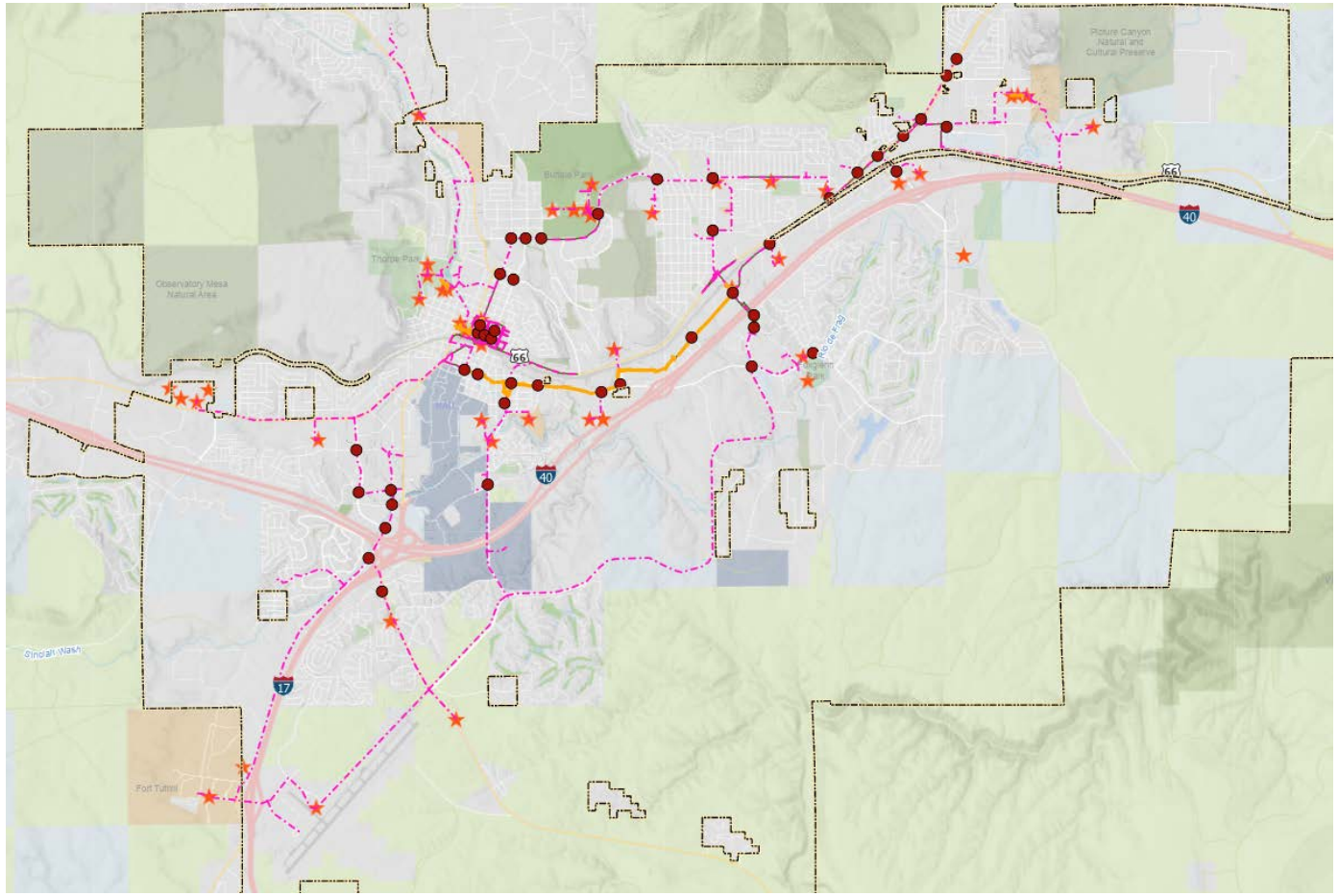
History of Fiber Projects

Timeline

- 2017 – Butler Fiber
- 2018 – Start of Flagstaff Fiber Master Planning

History of Fiber Projects

Fiber Master Plan



History of Fiber Projects

Timeline

- 2017 – Butler Fiber
- 2018 – Start of Flagstaff Fiber Master Planning
- 2018/2019 – State began Statewide Fiber Master Planning
- 2020 – COVID hit and everyone had to work from home
- 2020 – ARPA funding
- 2021-2023 – Additional fiber funding by Council
- 2022 – Federal Infrastructure Investments and Jobs Act
- 2024 – City releases Fiber RSOQ

History of Fiber Projects

RSOQ

- We released an RSOQ to:
  - Meet community needs for expanded access to broadband
  - Help the City develop an internal municipal fiber network for our facilities and smart city infrastructure.

- Evaluations were conducted in collaboration with multiple internal departments and several community partners

wecom fiber



City of Flagstaff

09.03.2024

Agenda – Table of Contents

1) **Introduction to Wecom Fiber**
2) **Building a Greater Flagstaff**

Wecom “Solves the Problem”

Wecom embraces an "everyone wins" approach that appeals to both local and state government leaders. Our approach also ensures fast, reliable, and affordable connectivity is accessible to all.

We are guided by five principles:

1. **Fiber First:** build best-in-class, future-proof networks
2. **Partnership Orientation:** establish cooperative, long-term relationships with government entities at all levels, middle-mile providers, utilities, and others to provide value to our customers
3. **Whole-of-County, “Outside-In’ Approach:** address the broadband needs of all unserved and underserved locations in our target counties, starting with the hardest to reach areas first
4. **Local Community Focus:** Headquartered in Kingman, AZ and 100% focused on serving rural Arizona. Our employees and executive team are Arizona-based, and we have a passion for serving the communities in which we live
5. **Fully Funded:** Our capital partners are committed to long-term, fiber broadband investment and will provide up to $300M in private capital to complete Wecom’s FttH build throughout Arizona

Wecom Fiber History

Wecom Fiber specializes in bringing internet service to rural and tribal areas in Arizona

- Founded in Kingman, Arizona in 1956
- Serves western and northern Arizona employing **fiber-to-the-home ("FttH") technology** and fixed wireless
- Named *Kingman Daily Miner's* Reader's Choice Award Winner for Best Internet Service Provider four years running
- **2020:** Won $3.2M USDA Reconnect Grant to connect 1,500 homes on the Hualapai Tribe
- **2021:** Won $10M ABDG award to build a **+$45M FttH network** and serve 15,000 homes in Mohave and La Paz Counties
- **2022:** Partnered with Searchlight Capital, the nation's largest private investor deploying fiber service, and Simple Broadband to accelerate Wecom's growth throughout Arizona, committed to deploying **$300M of private capital**
- **2023:** Won $8.1M Yavapai County project award to build a **+$21M FttH network** and serve 6,500 homes in Yavapai County
- **2024:** Selected by Coconino County to be their partner to bring broadband to rural unserved and underserved residents

wecom fiber

Notes: USDA: United States Department of Agriculture; ABDG: Arizona Broadband Development Grant

Governor Katie Hobbs Groundbreaking (Mohave)



OFFICE OF THE GOVERNOR
KATIE HOBBS

BRIDGING THE DIGITAL DIVIDE: Governor Katie Hobbs & Wecom Fiber Break Ground on High-Speed Broadband Internet for Mohave, La Paz Counties & Hualapai Reservation

News Release

November 15, 2023

"It's clear that you are a trusted partner on all things broadband, and we are lucky to have the opportunity to work together..."

- Governor Katie Hobbs

Superior Groundbreaking (Pinal County)



azcentral.

PINAL

'It can literally save lives': Pinal County poised for major broadband expansion



Sasha Hupka
Arizona Republic

Published 6:01 a.m. MT Dec. 5, 2023 | Updated 8:18 a.m. MT Dec. 5, 2023



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2) **Building a Greater Flagstaff**

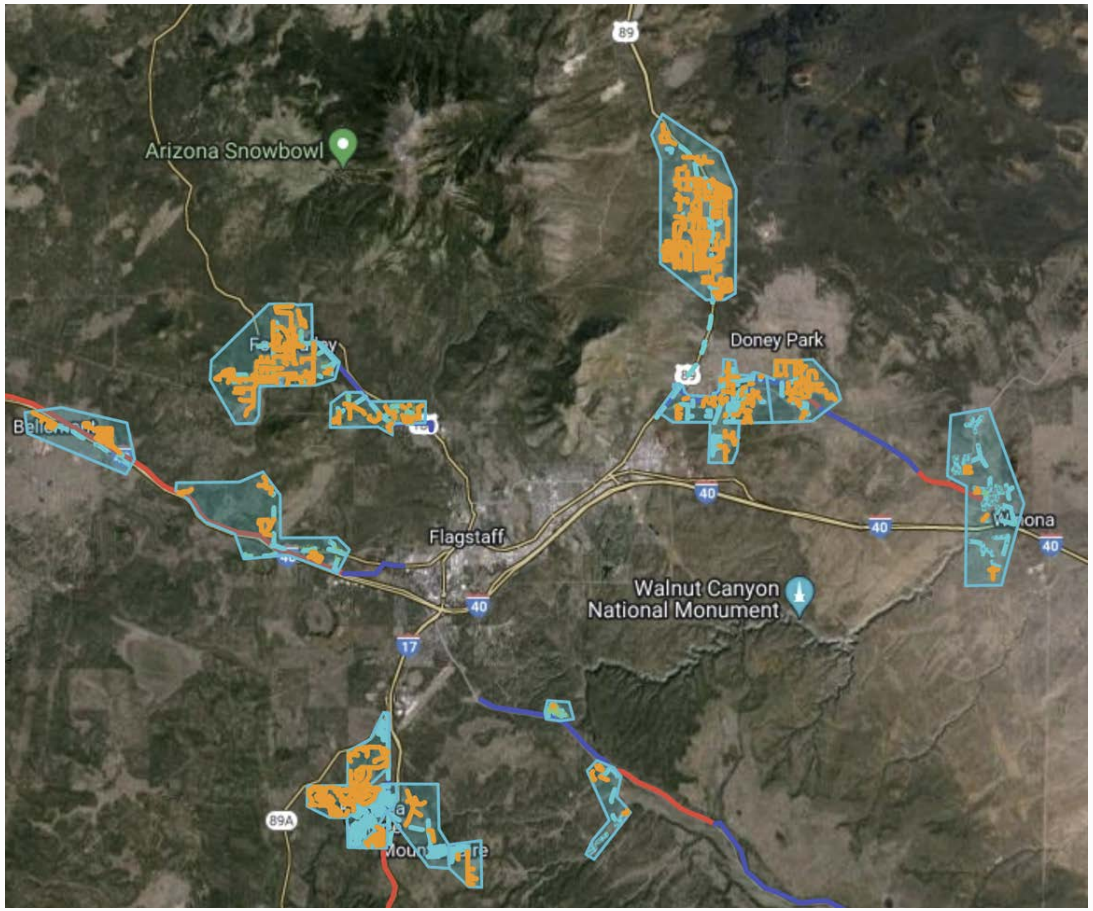
Flagstaff Fiber Network Outline

- **Project Overview**
  - Plan is to achieve **citywide** fiber network coverage
  - Investing **$50 million** to serve residents of Flagstaff

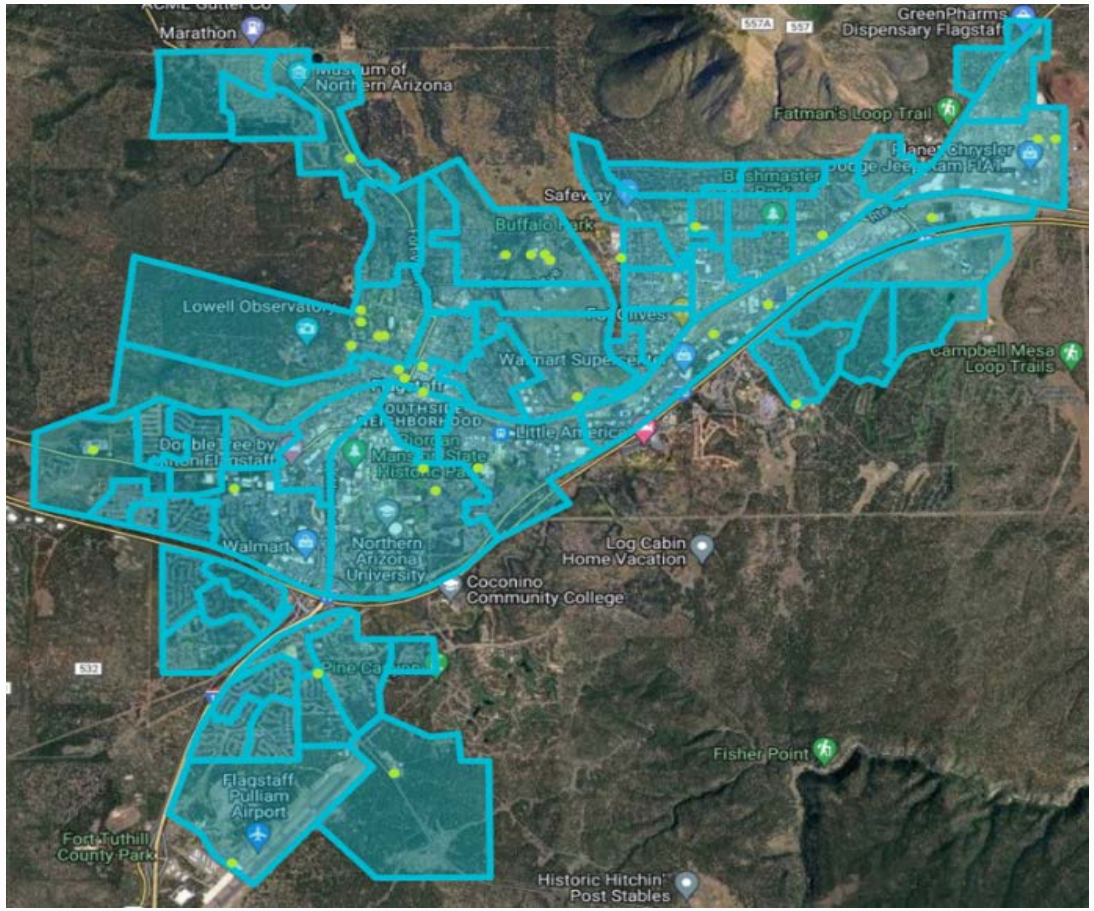
1+ Million	72,000+	95%
Feet of Fiber	Residents Served	City Coverage

Wecom's fiber network in Flagstaff is designed to ensure lasting, affordable broadband access for all!

Build Map



Details of the build outside Flagstaff City limits



Details of communities to be built inside Flagstaff City limits.

wecom fiber

wecom fiber

Thank You!

Next Steps

RSOQ Next Steps

- Wecom to complete design
- City Council to consider approval of:
  - Design-Build Contract amendment(s) for construction of City Fiber Network
  - License for use of Public Right-of-Way (for Wecom Fiber Network throughout City)
  - Lease of City Excess Conduit to Wecom (various locations)
  - Maintenance Agreement for City Fiber Network (optional)
  - In Kind Financial Exchange (City & Wecom contributions to balance out)
  - City Code amendments related to use of ROW (and possible fee structure)
- Wecom will begin construction

Next Steps

Questions?

REQUEST FOR STATEMENT OF QUALIFICATIONS (RSOQ) 2023-64
MARCH 19, 2024 | 3:00 PM MST

CITY OF FLAGSTAFF, ARIZONA

FIBER PROVIDER MUNICIPAL PARTNER









wecom fiber

wecominc.com



Wecomfiber.com

Paul Fleming
CEO
Direct: 702.344.0375
Paul@wecomfiber.com
3-19-2023

March 16, 2024
Teddy Callan
City of Flagstaff – Purchasing Division
211 West Aspen Avenue Flagstaff, AZ 86001

RE: RSOQ 2023-64 for Fiber Provider Municipal Partner

Dear Mr. Callan,

Wecom LLC d/b/a Wecom Fiber (hereafter "Wecom") is pleased to submit this response to the City of Flagstaff's Request for Statement of Qualifications (RSOQ). Wecom is headquartered in Kingman, Arizona, and has specialized for almost seven decades in providing high-quality communications services to Arizona communities, recently primarily focusing on fiber broadband.

As a full-service broadband provider responsible for construction, operations, maintenance, and customer service, our goal is to offer an integrated solution for high-speed broadband across Flagstaff. We recognize the importance of including underserved and unserved areas in our plans. While Flagstaff is not considered underserved, we plan to address both served and underserved by building over existing infrastructure provided by the imcumbents, and utilizing BEAD funding when available. In the absence of such funding, we are prepared to finance the project through private equity.

Below is a brief overview of our relevant achievements and partnerships since 2020:

- Won the Coconino County RFP forming a BEAD partnership to build new fiber facilities across Coconino County.
- USDA Re-Connect Program Grant: $3.2 million to connect 1,492 residents on the Hualapai Reservation.
- Arizona Broadband Development Grant (ABDG): $10 million to build a $45 million FTTP network connecting 15,000+ homes across Mohave and La Paz Counties.
- Yavapai County FTTP Network Grant: $8.1 million grant to build a $21 million FTTP network.
- City of Superior Pilot Project: Multigigabit fiber build to various municipal buildings.

In 2023, Searchlight Capital Partners ("Searchlight") and co-investor Simple Broadband made a strategic investment in Wecom, enabling us to expand into additional counties. With their backing, we are dedicated to delivering essential broadband services to communities in need. We stand ready to replicate our successes in Flagstaff, providing a best-in-class, fiber-first solution.

Comprised of seasoned experts, the Wecom team brings unparalleled expertise and dedication to every project, led by experienced executives and supported by skilled professionals, committed to delivering innovative solutions. Wecom is actively bridging the digital divide in Arizona , fostering economic growth and enhanced quality of life.

We ensure that reasonable diligence has been exercised in the preparation of the RSOQ, and all contents are true, accurate, and complete. No exceptions are made to the contents of the RSOQ other than as detailed herein.

We appreciate your time and consideration of our response. Please direct any questions to Paul Fleming, Chief Executive Officer (CEO), at paul@wecomfiber.com or 928-753-3829.

Respectfully,

Paul Fleming

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PROPOSAL SUMMARY

Wecom is a prominent fiber-to-the-premises (FTTP) and fixed-wireless internet service provider dedicated to enhancing broadband accessibility across Arizona communities. Our mission is to deliver fast and reliable internet services to homes and businesses, prioritizing customer satisfaction above all else. With a diverse clientele encompassing residential, business, and government sectors in Northern Arizona and Nevada, Wecom has forged successful partnerships with local and tribal governments to address critical broadband needs. Our last-mile network is designed to provide redundant and high-speed connectivity directly to customers, utilizing lateral fiber optic cables to connect street-level access terminals. These terminals then link to customer premises via drop cables, ensuring efficient fiber connectivity. We aim to offer ubiquitous multi-gigabit connectivity, ranging from 1 Gbps to 10 Gbps, to every service location passed with fiber within Flagstaff's city limits and the extended area.

Wecom is committed to affordability, striving to make broadband services accessible to all community members. We actively participate in various funding programs, including the FCC's E-rate, Rural Health Care Program, Lifeline, and the Affordable Connectivity Program, to reduce costs for customers, especially low-income households.

Our extensive experience in partnering with Native American Nations further strengthens our commitment to inclusive connectivity. We are currently deploying fiber for the Hualapai Tribe, delivering 10 Gbps services to their Tribal Government buildings, and initiating discussions with the Yavapai Apache Nation to address their broadband needs.

As we enter 2024, a pivotal year for broadband connectivity, Wecom is prepared to partner with Flagstaff to achieve citywide coverage. We are ready to self-fund the expansion to households within the city limits and submit a BEAD application to extend coverage to unserved and underserved areas. With the recent win of the Coconino County RFP, Wecom will be assisting the County in their BEAD challenge process. Additionally, we are eager to assist the City in the same BEAD eligibility challenge process.

In collaboration with the City of Flagstaff, we propose to build a citywide fiber broadband network covering approximately 1,128,000 feet of fiber, 382k ft aerial and 746k ft underground, a cost of $39 - $41 million. This initiative aims to serve more than 72k residents and 20,545 unique locations over a 24-33 month build time, ensuring comprehensive coverage across the city.

With over 67 years of operation in Arizona, Wecom has established itself as a trusted broadband provider committed to meeting the evolving needs of consumers and businesses. Our plan is fully funded through private capital, led by Searchlight Capital Partners, ensuring accountability, and focusing on delivering reliable broadband. As a local business deeply rooted in Arizona, Wecom understands the importance of respecting the community's history and preserving its natural beauty. We adhere to best practices for environmental conservation while navigating the challenges posed by Arizona's rugged terrain. Our extensive experience in deploying broadband infrastructure in challenging landscapes uniquely positions us to successfully execute the Flagstaff broadband project.

RESPONDENT INFORMATION

- Primary Contact: *Paul Fleming, CEO*
- Company Name: *Wecom LLC, d/b/a Wecom Fiber* Date Established: *1956*
- Number of Employees: *Wecom currently has 100+ employees and is hiring an additional 100+ employees during 2024. Through subcontractors Wecom has access to an additional 300 Employees.*
- Address: *2332 Kingman Avenue, Kingman, AZ 86401* *Phone Number: 928.753.3829*
- *Web: https://wecomfiber.com/*
- AZ Contractor's Licenses: 075287 and 066605

PERCENTAGE OF COMMUNITY SERVED

Details of the build inside flagstaff City limits

Successfully deploying an all fiber-based network to all homes and businesses is a key strategy for Wecom in Flagstaff. This approach, combined with offering affordable prices and participation in programs aimed at reducing internet service costs, ensures that Wecom's network in Flagstaff will bring fast, affordable, and reliable service to all residents and businesses.

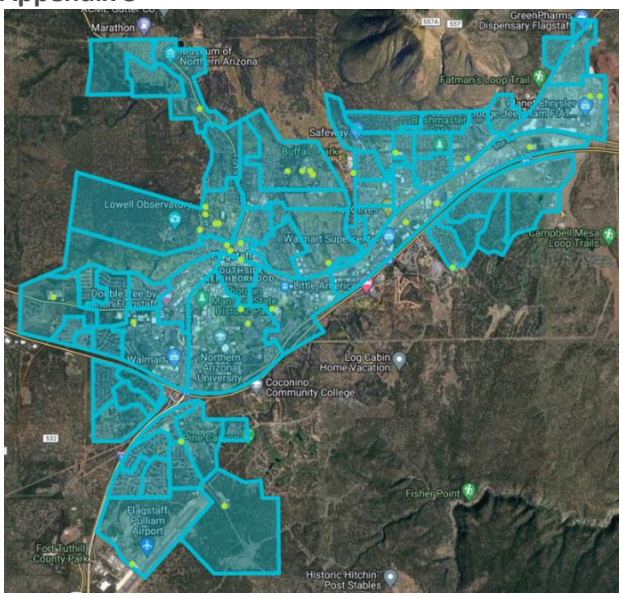
Fiber-based networks, such as those built by Wecom, offer unparalleled speed and reliability. This ensures that the infrastructure will not need upgrades in the near future, guaranteeing that Flagstaff and its residents will continue to receive affordable, state-of-the-art service for decades.

Wecom will partner with Flagstaff effectively closing the digital divide and ensuring that all residents have access to reliable broadband services. Wecom will build an all-fiber network, leveraging both private (primarily) and public funds (including BEAD funds to be allocated by the State of Arizona).

- **Wecom's proposed service area covers 95% of Flagstaff's city limits with fiber (20,545 specific service locations)**. All service locations counts are pulled from the FCC V4 data set.
    - 87% of the city limits will be constructed using Wecom's private capital with an all-fiber network (18,885 service locations)
    - Wecom will challenge 8% of the city limits for appropriate BEAD funding and use BEAD funding with additional Wecom capital to construction the additional 8% (1,660 service locations) with fiber. Wecom will be handling the same challenge via the recently won Coconino County broadband RFP.
    - As construction progresses Wecom will continue to explore cost effective plans to expand the fiber network to the remaining 5%.

Area	*Built Locations (overbuild)*	*Underserved Locations*	*Total Locations*	*Service Technology*
Flagstaff	20,426	119	20,545	FTTH
Total Flagstaff (Fiber)			20,545	100%

Additional and larger Maps – Appendix 3



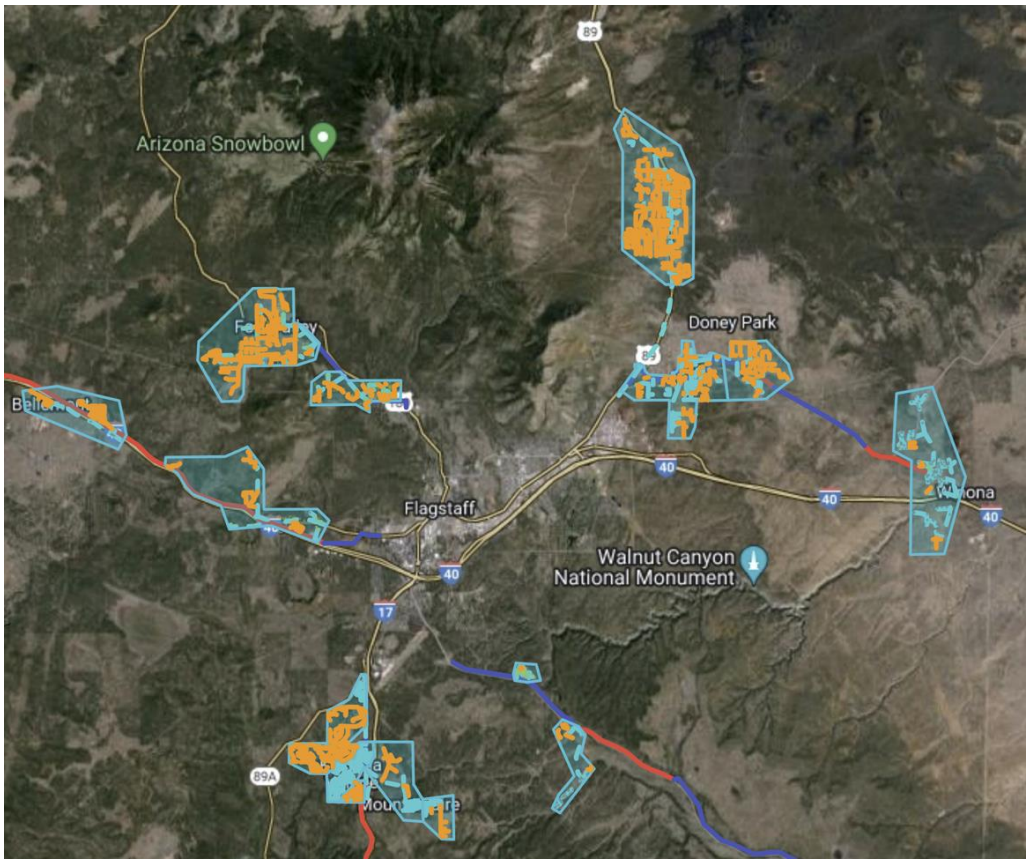
Detail of communities to be built outside Flagstaff City limits.

Connecting the Flagstaff surrounding areas is a key component of a comprehensive communications network. Wecom is happy to announce it recently won the Coconino County RFP to be the County's BEAD service provider. Wecom will be constructing a fiber network throughout Coconino County for the underserved and unserved locations. Through this project Wecom will be building 100% of the areas surrounding Flagstaff.

Of the specific areas Flagstaff requested outside of the city limits, 55% of those locations are considered served by other providers, Wecom will be building to the remaining 45%. Upon completion there will be a service 100%.

In Network Total Coverage Percentage			
Service Area	*Number of Service Location in Plan*	*Total Number of Service Locations*	*Percentage of Coverage*
Doney Park	1,126	2,793	40.3%
Fort Valley	860	860	100%
Bellemont	1,304	1,304	100%
Kachina Village	0	2,366	0%
Mountainaire	0	659	0%
Winona	394	394	100%
Timberline	565	1,043	54.2%
Total	**4,249**	**9,419**	**45.1%**

Additional and larger Maps – Appendix 3



Points of Interest – Anchors – Street lights

At Wecom, we recognize the paramount significance of connectivity for the entire Flagstaff community. We are committed to enhancing this vital aspect of the Flagstaff operation by connecting 35 key points of interest and 45 stoplights. Wecom will construct innerduct and fiber for all of the Flagstaff facilities listed.

Priority Site

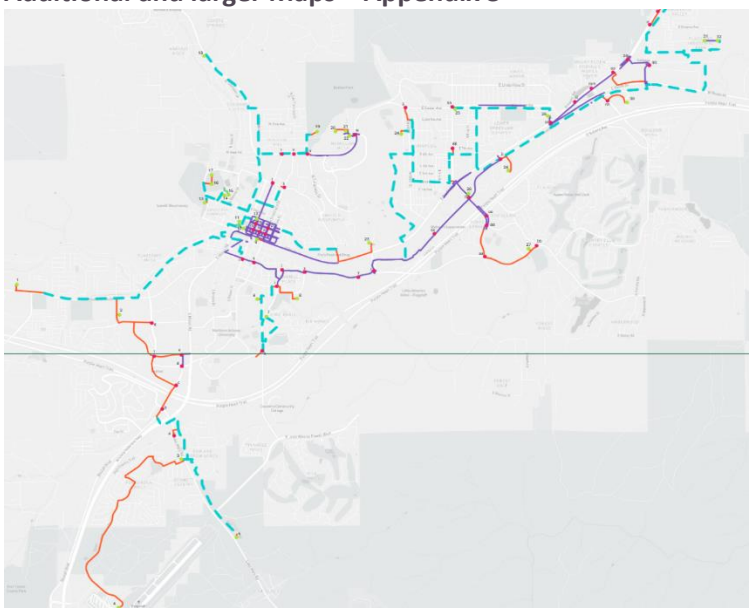
Points of Interest				Traffic Signals	
1	Public Works Yard-COF	3200 W Route 66		A	S Lake Mary Rd & W High Country Trail
2	Fire Station 1-COF	1972 S Thompson St		B	S Lake Mary Rd & S Beulah Blvd
3	Fire Station 6-COF	3877 S Lake Mary Rd		C	S Beulah Blvd & S Woodlands Village Blvd
4	Airport-COF	6200 S Pulliam Dr		D	S Beulah Blvd & W McConnell Dr
5	Lake Mary Water Plant-COF	4500 S Lake Mary Rd		E	S Beulah Blvd & W Forest Meadows St
6	Cemetery-COF	1050 S San Francisco St		F	S Woodlands Village Blvd & W Forest Meadows St
7	Brannen Homes-COF	1 S Brannen Cir		G	S Woodlands Village Blvd & W University Ave

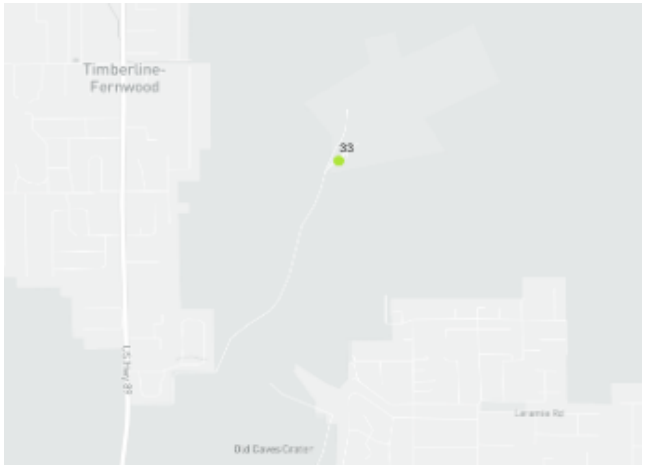
8	Leaf City-COF	911 E Sawmill Rd		H	S Lone Tree Rd & E Pine Knoll Dr
9	Visitor Center-COF	1 E Route 66		I	S Lone Tree Rd & E Franklin Ave
10	City Hall-COF	211 W Aspen Ave		J	S Lone Tree Rd & E Butler Ave
11	Main Library-COF	300 W Aspen Ave		K	S San Francisco St & E Butler Ave
12	New Court House-COF	101 W Cherry Ave		L	S Beaver St & W Butler Ave
13	Adult Center-COF	245 N Thorpe Rd		M	N Beaver St & W Aspen Ave
14	Sustainability-COF	419 N Mogollon St		N	N Leroux St & W Aspen Ave
15	Old Fleet Building-COF	419 N Mogollon St		O	N San Francisco St & E Aspen Ave
16	Thorpe-COF	560 N Thorpe Rd		P	N San Francisco St & E Birch Ave
17	Parks Building-COF	600 N Thorpe Rd		Q	N Beaver St & W Birch Ave
18	Fire Station 5-COF	2525 N Fort Valley Rd		R	N Beaver St & W Columbus Ave
19	Jay Lively Ice Rink-COF	1650 N Turquoise Dr		S	N San Francisco St & E Columbus Ave
20	McMillan Mesa Microwave Tower-COF	2225 N Gemini Dr		T	N Beaver St & W Forest Ave
21	Business Incubator-COF	2225 N Gemini Dr		U	N San Francisco St & E Forest Ave
22	Business Accelerator-COF	2201 N Gemini Dr		V	N Turquoise Dr & E Forest Ave
23	Fire Station 2-COF	1701 E Ponderosa Pkwy		W	N Gemini Dr & E Cedar Ave
24	Flag Rec Center-COF	2403 N Izabel St		X	E Sawmill Dr & E Butler Ave
25	East Side-Library-COF	3000 N Fourth St Ste 5		Y	S Babbitt Dr & E Butler Ave
26	Aquaplex-COF	1702 N Fourth St		Z	E Ponderosa Pkwy & E Huntington Dr
27	Fire Station 4-COF	4100 E Butler Ave		AA	N Fourth St & E Butler Ave
28	Water Services/Housing-COF	2323 N Walgreens St		BB	N Foxglenn St & E Butler Ave
29	Flag Housing Authority-COF	3481 N Fanning Dr		CC	E Lucky Ln & E Huntington Dr
30	Fire Station 3-COF	4500 E Nestle Purina Ave		DD	N Fourth St & E Sparrow Ave

31	East Side Utility Shop-COF	5401 E Commerce Ave		EE	N Fourth St & E Soliere Ave
32	PD Warehouse-COF	5477 E Commerce Ave		FF	N Fourth St & E Huntington Dr
33	Landfill-COF	6770 E Landfill Rd		GG	N Fourth St & E Seventh Ave
34	Rio Del Flag Water Plant	600 S. Babbitt Dr.		HH	N Fourth St & E Cedar Ave
35	Wildcat Water Plant	2800 N. El Paso		II	N West St & E Cedar Ave
				JJ	N Stevens Blvd & E Industrial Dr
				KK	N Fanning Dr & Rt 66
				LL	Rt 66 & Rt 89
				MM	N Country Club Dr & Rt 89
				NN	N Country Club Dr & E Nestle Purina Ave
				OO	N Cummings St & Rt 89
				PP	Rt 89 & E Marketplace Dr
				QQ	N Mall Way & E Marketplace Dr
				RR	Rt 89 & E Empire Ave
				SS	N Smoke Rise Dr & Rt 89

Point of Interest Map

Additional and larger Maps – Appendix 3





As mentioned above, the result of these projects will be 100% fiber coverage for community anchor institutions points of interest in Flagstaff, with all households and businesses including the points of interest to be constructed based on a partnership between Flagstaff and Wecom that will deploy primarily private capital and supplement with BEAD funding.

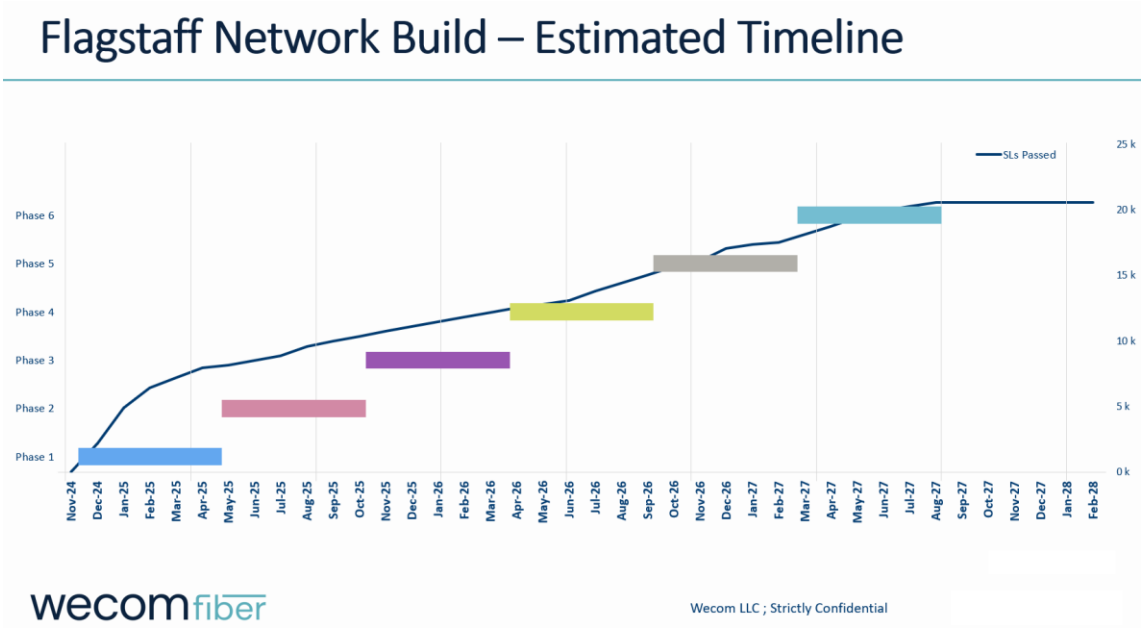
Wecom will connect Flagstaff with new fiber routes and major interconnect facilities in Phoenix (~130 miles along Interstate 17), Albuquerque (~300 Miles along Interstate 40), and Las Vegas (~225 Miles along Interstate 40 through Kingman). This planned connectivity would give Flagstaff redundant long-haul access to significant peering points and high-speed access to major global Internet Peering sites in Los Angeles, Dallas, and beyond.

Wecom will connect the Flagstaff Facilities (POIs) with either LIT or dedicated dark fiber strands through, per the City's requirements.

Being a full retail ISP and with a Service Level Agreement, Wecom will provide contracted construction, maintenance, and repair of the proposed dark fiber network. The exact terms will be negotiated with Flagstaff.

PROJECT SCHEDULE

Wecom would plan to start physical construction in November of 2024 and finish in 34 months in August 2027 (the goal is always to finish faster). See additional information under the timeline of construction section.



FLAGSTAFF REQUIREMENTS

The specific RSOQ objectives and requirements are all being met by Wecom:

- Wecom meets objective 1 connect City Facilities and Smart City Infrastructure
- Wecom meets objective 2 connect community, government, and educational facilities.
- Wecom meets objective 3 bring better and faster internet access to the community.
- Wecom will enter into the City's standard form design build construction contract (post negotiations)
- Wecom will enter into a license agreement for public right of way usage.

- Wecom will negotiate a lease for excess city capacity.

The specific RSOQ submittal requirements have been met:

- Wecom did not exceed 25 pages (not including appendices, maps, dividers, table of contents, transmittal letter)
- Wecom will follow the City Engineering standards for trenching and installation of underground innerduct found in the Flagstaff City Code.
- Wecom will follow the MAG standards.

PARTNERING WITH FLAGSTAFF

Wecom understands that Flagstaff is working to deliver future-proof fiber broadband infrastructure to every resident, business, community anchor institution, and city facility within the City's borders. This infrastructure must come with fast, affordable, and reliable service. Wecom's business model is aligned with this goal, and we are eager to form a long-term partnership with the City to achieve this vision.

Wecom is committed to leveraging our expertise and resources to build a fiber-first in alignment with the City's vision.

In addition to deploying Wecom's private capital for most of the build, Wecom believes that partnering with the City on a unified BEAD application to the Arizona Commerce Authority presents the most effective strategy for achieving and surpassing the City's connectivity goals. By collaborating closely with the city, we can leverage our combined strengths and resources to ensure that every unserved and underserved area receives the high-quality broadband access it deserves.

Furthermore, Wecom brings considerable experience reviewing and challenging the categorization of locations in the federal broadband maps which might be incorrectly labeled as "served." Wecom is ready to assist Flagstaff in the upcoming location challenge process, which will be administered by the Arizona Commerce Authority in the coming months.

In pursuit of a productive partnership with the city, we kindly request certain items from the city of Flagstaff:

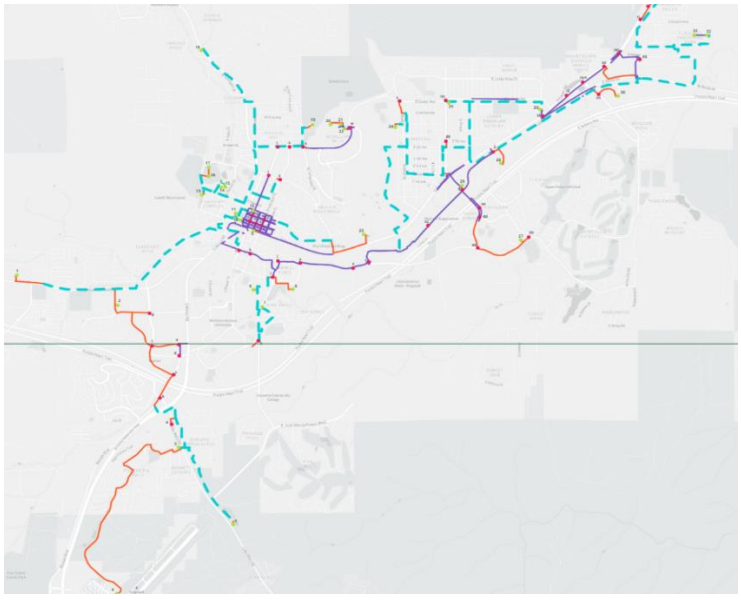
- **POC:** The appointment of a dedicated Single Point of Contact ("POC") with the requisite knowledge and authority. This individual will play a vital role in facilitating decision-making, assisting with permitting and easements, connecting with local resources, promising streamlined communications, saving time, and optimizing project cost-effectiveness. Wecom is committed to reciprocating this practice by providing a dedicated POC for the City, fostering a collaborative and efficient approach.
- **TCPs:** Approval of typical TCPs for traffic control. This will allow Wecom to efficiently and cost effectively handle traffic issues.
- **Support for Road Closures and Traffic Management:** Seeking City support for essential project logistics, including road closures, traffic direction at crosswalks, and detours during construction. Providing officers of the law to help coordinate traffic closures.
- **Alternative trenching methods:** Consideration of alternative trenching methods
- **Boring:** We ask that excess site restoration beyond the standard bore process be removed (asphalt / concrete patchback that goes beyond the bore pit and pothole area/ openings. Allow standard MAG bore pits at 4' x 8' with only patchback required on the bore pit area (not stretching beyond)
- **Temporary Workspace or Mobile Operations Site:** Requesting a dedicated workspace or a site for a mobile operations trailer to optimize project coordination and store heavy equipment. This could be any fenced-in yard to store equipment and materials. Only to be used during construction and then returned to its original state.

- **Cost-Effective Advertising and Community Outreach:** Explore cost-effective options for local advertising and seek assistance with community outreach and development to ensure project success. This could include city halls, fairs, festivals, rodeos, and other events to help spread awareness of deployments.
- **Inclusion of Historic Preservation and Planning Commissions:** Proposing the inclusion of the City's Historic Preservation and Planning Commissions in communications and planning with Wecom, fostering comprehensive and coordinated efforts.
- **Access to GIS Maps:** Requesting access to the City's GIS maps for the right of way ("ROW") and land ownership is vital for meticulous planning and execution.
- **Power Pole Access and Conduit Usage:** Seeking permission to access current City-owned power poles, with a preference for underground fiber deployment, and requesting the use of any City-owned conduit when appropriate.
- **Exclusive Provider Status for Future BEAD Applications:** Proposing that the winning ISP/vendor from this proposal be granted exclusive provider preference (an MOU) for future BEAD applications, ensuring continuity and efficiency in our collaborative efforts.
- **In-Kind** We request in Kind trade for services / ROWs we appropriate.
- **Coordination, Assistance, and Collaboration with external permitting agencies:** Requesting assistance in the permitting process with Forest Services, Bureau of Land Management, State Land, and any other governmental entities that may have a material impact on Wecom's ability to receive permits and complete the project in a timely, cost-effective way.

CITY CONDUIT/FIBER MODEL

Designed with Wecom's Vetro planning software. New innerduct in the map below is (2) 2" HPDE SDR 13.5 duct, one for Wecom and one for the City. ADOT #9 pull boxes are placed at each corner, underground splice locations, and required pull boxes are placed along the new route. City owned duct (purple), new planned routes (red, orange, blue).

Additional and larger Maps – Appendix 3



Details on City-owned infrastructure, including:

Duct (innerduct) shall be 2" HPDE SDR 13.5, orange in color. One new innerduct will be installed for the city and one for Wecom. Wecom suggests 2" innerduct instead of the 3" the city mentioned. When boring a standard machine can bore and then pull quantity two – 2" innerducts through the hole at once, but when you go to 3" you must double bore, and it drives the cost up drastically. City owned fiber shall be Corning SST-Ribbon Single-Tube, Gel-Free, Armored Cable 144 F, single mode (OS2). Drop cables to each location shall be LightScope ZWP Self-supporting All-Dielectric, single mode G.652.D and G.657.A1, 12 fiber arid core construction, gel-filled, central loose tube.

Further negotiations are required for the final City-owned innerduct and fiber agreement. Wecom finds cost savings and faster market entry through the City's facilities (excess fiber and innerduct). Wecom suggests a minimum 20-year IRU for each product with renewal options. A zero-cost agreement benefiting both Flagstaff and Wecom is possible through in-kind trade. In case of cost issues, Wecom will negotiate fair rates with the City in good faith.

Appendix 5 includes examples of prior IRUs by Wecom, which can be adapted for the innerduct and fiber IRUs. If applicable, co-location options such as pull box or fiber co-location can be included in the IRU.

Wecom has franchise agreements, master service agreements, resolutions, and MOUs with:

- Coconino County AZ
- Mohave County AZ
- La Paz County AZ
- Yavapai County AZ
- Pinal County AZ
- City of Kingman AZ
- Lake Havasu City AZ
- Superior AZ
- Casa Grande AZ
- Department of Defense
- Homeland
- NOAA
- Multiple Police, Sheriff, Fire (list can be provided)

As a partnership between Wecom and Flagstaff the combination of resources and talent is beneficial for both parties. A maintenance and splicing agreement are something Wecom would like to explore further with the city. We do believe it could be beneficial for both parties. If we are awarded this project we would ask to start those conversations immediately.

OPEN ACCESS

Indication of Open Access availability or business model.

Wecom operates an open-access network (OAN) on its middle mile fiber, in which any other provider or retail person can purchase services. Wecom does not discriminate against any individual, business, or other carriers. These services typically fall into special requests and are priced individually.

OAN access is based on the availability of fiber in the requested areas and is not guaranteed, and only available on middle mile.

Examples of other communities where an Open Access network is offered by the respondent, including:

Wirefree Communications in Lake Havasu Arizona is an internet service provider who purchases Wecom's open access middle mile and direct internet access for its last mile network. For reference contact Alan Cameron acameron@wirefreeus.com 928-505-2999

List communities served using gigabit fiber technology.

Wecom has intentionally updated our strategic plan to provide 100% fiber to our customers whenever possible. We are phasing out legacy fixed wireless and implementing all fiber (shown in the Table below).

Due to reasons of feasibility (challenging geography or extreme costs), some areas will remain all fixed wireless or a mix of technologies. However, Wecom's mission is to provide 100% fiber technology to our customers whenever possible due to futureproofing, rare replacement, and increased speeds.

Communities currently receiving gigabit fiber technology, which Wecom operates as a retail ISP to both residents and businesses, include:

Relationship	Status	Total Population
Kingman	100% FW / 25% Fiber (or in Fiber) construction	34,918
Golden Valley	100% served by fiber (or in a stage of fiber construction – served by FW during areas of fiber construction)	8,801
Valle Vista	100% served by fiber (or in a stage of fiber construction – served by FW during areas of fiber construction)	2,746
Yucca	50% FW / 100% Fiber in construction	61
Hualapai Mountains	50% FW	3,000
Hualapai Native American Tribe	100% FW now / 100% fiber in construction	1,621
Meadview	100% served by fiber (or in a stage of fiber construction)	1,600
Parker	100% served by fiber (or in a stage of fiber construction)	3,500
Quartzsite	100% served by fiber (or in a stage of fiber construction)	2,400
Bouse	100% served by fiber (or in a stage of fiber construction)	1,200
Salome	100% served by fiber (or in a stage of fiber construction)	1,400
Wenden	100% served by fiber (or in a stage of fiber construction)	410
White Hills	100% served by fiber (or in a stage of fiber construction)	210
Dolan Springs	100% served by fiber (or in a stage of fiber construction)	2,000
Yavapai County (4 areas)	100% in fiber construction	6,500
Ehrenberg	100% served by fiber (or in a stage of fiber construction)	1,100

(FW = fixed wireless)

OTHER LOCAL BENEFIT

Affordability:

Wecom is committed to providing affordable and accessible broadband services for all, including government, education, non-profits, and low-income families in Flagstaff, Arizona. Wecom's standard rates in the proposed service area are competitive and comparable to rates outside the project area for the same speed tiers using fiber technology. Proposed rates for the speeds expected to be offered are included below. The pricing is comparable with the pricing in the FCC's annual Urban Rate Survey. Wecom's plans offered in the proposed service areas will not include data caps, throttling of speeds after usage limits are reached, and no metered or "pay as you go" service.

Wecom's tiered pricing structures will also provide competitive rates and discounted packages specifically tailored to government agencies, schools, and non-profit organizations.

Education Institutions:

- Offer a bulk discount for schools, colleges, and universities based on the number of connections needed.
- Provide special packages with enhanced security features for educational purposes.
- Include options for on-campus and remote learning access.
- E-rate offerings

Government Agencies:

- Tailored plans for different government departments based on their bandwidth and security requirements.
- Priority customer service and guaranteed uptime for essential services.
- Bundled packages with additional services like secure data transmission.
- CAI Program (discounted / free rates for Anchor institutes).

Non-Profit Organizations:

- Subsidized rates based on the size and scope of the organization.
- Options for flexible bandwidth allocation to accommodate varying needs.
- Collaboration tools and cloud services are included in the package.
- Wecom's "giving back" and community involvement initiative.

Low-Income User Differentiation:

Wecom participates in the Affordable Connectivity Program (ACP), which helps low-income households pay for broadband service and internet-connected devices to address digital equity. Wecom makes it easy to enroll or transfer existing eligibility for a household to Wecom and will offer a variety of affordable plans between 100 Mbps and 10 Gbps, symmetrical with prices and terms that are competitive with other service provider offerings. It is part of Wecom's mission to provide reliable and fastest service for prices customers can afford.

Though the ACP may not be renewed, we remain committed to ensuring affordable options for all individuals. We also engage in other low-cost programs facilitated by universal services, including E-rate and Lifeline. By leveraging these initiatives alongside competitive pricing strategies, Wecom endeavors to provide more accessible and dependable connectivity solutions to its customers. Furthermore, Wecom pledges to continue participating in any forthcoming affordability programs to expand accessibility to high-quality internet services to the unserved and underserved in Arizona.

Wecom proposes a simple, easy-to-understand pricing structure with all broadband taxes included in the price to the customer (Voice over Internet Protocol or VoIP is taxed separately). Wecom's primary service is "stand-alone" as it does not provide video, but Wecom will offer VoIP service for an additional $15 to any customer that requires it. Wecom can also provide an additional service to extend Wi-Fi coverage to large houses for a fee.

See our proposed pricing structure below.

Residential Service Plans

Package	Price
100/20 Mbps - Residential	Free with eligible program
500/500 Mbps - Residential	$70.00
1/1 Gbps - Residential	$90.00
3/3 Gbps - Residential	$115.00
5 / 5 Gbps - Residential	$135.00

Wecom products include:

- Our services are 100% all-fiber and symmetrical (same download/upload speed).
- Promoting digital inclusion, Wecom offers a free residential internet package for those who qualify under a program that funds a minimum of $30.00 per month towards the internet bill. The resident must be eligible and approved for the program.
- An optional Premium Wi-Fi 6 router upgrade.
- An optional Wi-Fi 6 Mesh Extender.

- Fiber Phone service (VoIP).
- ***1 Gbps = 1,000 Mbps.

Business Service Plans

Package	Price
1/1 Gbps – Business Services	$185.00
3/3 Gbps – Business Services	$265.00
5/5 Gbps – Business Services	$335.00
>5 Gbps – Business Services	ICB
Voice - VoIP – Business Services	ICB

Wecom proposes a simple, easy-to-understand pricing structure with all broadband taxes included in the price for the business (VoIP is taxed separately). ICB means priced on an individual case basis.

Community Impact and Local Benefit:

Residents and households in Flagstaff, AZ, will witness a transformative enhancement in their daily lives through the deployment of a symmetrical multi-gigabit fiber network. This project goes beyond mere connectivity; it is about empowering individuals and families with access to a wealth of applications and technologies that were previously out of reach. With robust download and upload speeds, fiber customers will enjoy a plethora of communication and entertainment options, often at reduced costs. This includes services such as voice-over-internet-protocol, video communications, home automation, telehealth, expanded education, and online news services. The newfound ability to stream videos, engage in online gaming, and utilize various online platforms simultaneously will become a reality, benefiting multiple users within the same household.

Transformation in Education:

Education in Flagstaff will undergo a profound transformation with enhanced access to training courses, learning resources, and distance learning opportunities. Students of all ages will gain the ability to complete online assignments, conduct research from the comfort of their homes, and participate in virtual classrooms. This not only enriches educational experiences but also opens doors for those seeking new job opportunities or career changes. Job searches, training programs, and remote work opportunities will become more accessible, empowering individuals to pursue their professional aspirations without geographical constraints.

Enhanced Safety and Real-Time Information:

During times of public safety emergencies and severe weather events, residents will have reliable access to real-time information, contributing significantly to community safety. The symmetrical gigabit fiber network supports future safety applications such as NG911, ensuring that our community is well-prepared and connected during critical times. This level of connectivity can be lifesaving, providing vital updates and communication channels in times of crisis.

Boost to Businesses and Healthcare:

Businesses within the project area will experience a significant boost from high-speed symmetrical broadband service. They will be equipped to offer a wide array of services including distance learning, remote work capabilities, video communications, and seamless online transactions. This enhanced connectivity will drive innovation and growth in local businesses. Furthermore, hospitals and healthcare facilities will expand their reach to more patients through telemedicine applications such as remote heart

monitoring, blood monitoring, and biometric diagnostic testing. This not only improves healthcare access but also enhances the quality of care through the integration of innovative technologies.

Modernizing Agricultural Practices:

The symmetrical gigabit fiber network will revolutionize agricultural practices in Flagstaff. Farms and agricultural entities can adopt innovative technologies to monitor and manage operations, enhance crop production, and improve efficiency. From soil quality monitoring to topography mapping, precision-guided spray rigs, and electronic animal identification software, the possibilities are vast. The ability to track individual animal activity and performance will lead to better management practices and increased productivity, contributing to modernizing agricultural practices in our community.

Dark Fiber Services vs. MOE Circuits:

In addition to traditional internet services, we offer wholesale point-to-point dark fiber to other government, education, and non-profit agencies in communities we serve. This enables these entities to have dedicated, high-speed connections tailored to their specific needs, enhancing their internal network capabilities. These services are priced on an individual case basis.

ADDITIONAL COMPANY INFORMATION

Other lines of business conducted by the respondent.

Wecom provides additional telecommunications services, fiber internet, Voice over internet Protocol (VoIP) transport, wide area networks (WAN), and internet and transport services for multiple cellular carriers and partners with other Internet Service Providers (ISPs) to expand connectivity (a carrier for other carriers).

Wecom also provides construction for AT&T, Verizon, and T-Mobile, and two-way radio for Mohave County, Fire Departments, Police Departments, Sheriff's Offices, and more.

Description of any recent mergers or acquisitions

Enabling Wecom's vision of continued growth, the company recently secured a strategic investment from Searchlight Capital Partners and Simple Broadband to facilitate fiber expansion, becoming Wecom, LLC. With this investment, Wecom is structured to create more sustainable local jobs in Flagstaff, purchase materials from local vendors, and work with local utility partners on broadband projects. See Appendix 2.

Community Partnership and Local Empowerment

As we continue to grow and expand broadband access across Arizona, we prioritize community engagement and local empowerment. Wecom is 100% focused on deploying fiber and best in class broadband infrastructure in Arizona. As part of our commitment to supporting the communities we serve, we actively seek to hire and train local talent whenever possible. We have a 100% local employee base and plan to create over 400 jobs in the state through BEAD. By investing in local workforce development, we not only contribute to the economic growth of the regions where we operate but also foster stronger relationships with our customers and stakeholders. Through these concerted efforts, we are not just building networks; we are building lasting partnerships and enriching the communities we serve. Continuing that vision, Wecom will hire residents from Flagstaff, creating 40 to 60 additional jobs (temporary and permanent).

Wecom and Arizona Western College Partnership

Wecom prides itself on being an equal opportunity employer hiring diverse candidates and places significant value on partnerships. A notable example of this is our recent partnership with Arizona Western College. The partnership resulted in the offering of a complimentary hybrid course teaching students' foundational skills in deploying fiber optic cable. This innovative program enables individuals to attain certification in diverse fiber-building foundations, paving the way for exciting career opportunities. As a testament to

Wecom's commitment to community welfare, this initiative exemplifies our dedication to enhancing the skill sets of local residents.

Wecom is planning to recruit individuals with this specialized qualification, reinforcing our belief in empowering and supporting the communities we serve. Wecom's next goal is to bring the program to Yavapai Community College.

FINANCIAL VIABILITY

Wecom has recently received a significant strategic investment from Searchlight Capital Partners, the nation's largest private investor in broadband fiber builds, and co-investment firm Simple Broadband. With this strong financial backing, Wecom has the necessary private capital to build its proposed networks in Arizona.

Searchlight Capital Partners is a private investment firm with over $13 billion in assets under management and a long track record and experience in telecommunications and infrastructure investments. Specifically, Searchlight is the largest investor in FTTH in the U.S. and the fourth largest builder of residential FTTH in the country through the companies that it backs.

This investment in Wecom demonstrates the confidence that Searchlight and Simple Broadband have in Wecom's ability to build and operate rural broadband networks, and Wecom has access to the expertise and resources of these two firms as it expands in Arizona. Wecom has never declared bankruptcy and has no pending lawsuits. Wecom has the funds available and specifically committed to Flagstaff.

Additionally, the Broadband Equity and Access Deployment (BEAD) Program is a generational funding opportunity to reach unserved and underserved locations. Wecom will aggressively leverage its past success in securing state and federal grants to pursue BEAD funding as it becomes available. See Appendix 2.

Upon being awarded the Flagstaff project, Wecom will produce required financial documents.

EXPERIENCE

List all communities served in Arizona, and list other States where Respondent is an active retail ISP.

Wecom currently operates in Arizona and Nevada, and our customers include residences, businesses and enterprises, educational institutions, government offices, healthcare providers, non-profits, carrier services and community anchor institutions, including:

- Medical Facilities: Kingman Regional Medical Center, Tuba City Regional Healthcare Corporation, Desert Radiology, Peach Springs Indian Health Services, and numerous medical practitioners' offices.
- Educational Facilities: Mohave Community College, Leupp Schools Inc., Flagstaff Unified School District (Leupp Public School), Dilcon Community School, and Tuba City Unified School District.
- Tribal and Local Governments: Kingman, Golden Valley, Valle Vista, Lake Havasu City, Yucca, Hualapai Mountains, Hualapai Native American Tribe, Tuba City, Leupp, Dilcon, Bullhead City, and several other locations throughout Arizona. This includes courthouses, County IT departments, City IT departments, Chamber of Commerce, Airports, roads departments, and more throughout Arizona. Wecom can provide a detailed list of each municipality served. Wecom also serves the federal government in different capacities including NOAA, Department of Defense, Border Patrol, and BLM.
- First Responders: Mohave County Sheriff's Office, Kingman Police Department, Mohave County Search and Rescue, Northern Arizona Fire Department, Kingman Fire Department, Superior Police, Superior Fire Department, and many others.

Our customer service and response model.

At Wecom, we prioritize providing exceptional customer service that goes beyond the ordinary. Our commitment to excellence starts with handling all inquiries and issues in-house, ensuring that when you

reach out to us, you are speaking directly to a knowledgeable Wecom employee who is dedicated to resolving your concerns promptly and efficiently. This approach not only streamlines the support process but also fosters a deeper connection between our team and our customers.

Looking ahead, we are excited to expand our operations into Flagstaff. By opening operation centers near the area, we aim to bring our customer support even closer to our customers and further enhance accessibility. Additionally, we are committed to hiring employees from the City whenever possible, not only to support the local economy but also to better serve the community in which we operate.

Located in Arizona, our 24/7/365 call center exemplifies our dedication to being there for our customers whenever they need assistance. Staffed by a team of professionals trained to understand and address the unique needs of our clientele, our call center is more than just a service hub, a place where customers can feel heard and valued during every interaction. This local touch allows us to provide personalized support that truly makes a difference.

Round-the-clock support is reachable via e-mail, phone, website, and customer portal. From 7:30 AM to 5:30 PM (0730 to 1730 AZ MST), within 20 minutes of an automated alert of a ticket request, a technician will take ownership of the trouble ticket and begin work. From 5:30 PM to 7:30 AM (1730 to 0730 AZ MST), within 50 minutes of automated alert of ticket request, a technician will take ownership of the ticket and begin work.

Network events under Wecom's control are resolved within 4 hours except for events requiring deeper investigation such as intermittent or time-of-day events.

Wecom provides global network status updates online, through email and text messages during critical network events. We also have systems which automatically backup all configurations for quick deployment in the event of a hardware issue.

At Wecom, our customers are at the forefront of everything we do. As we continue to grow and evolve, our focus remains on providing unparalleled service and support to every individual who chooses Wecom as their trusted telecommunications provider. We are here to listen, assist, and ensure that our customers' experience with us exceeds their expectations every step of the way.

CONSTRUCTION METHODOLOGY

PROJECT SCHEDULE

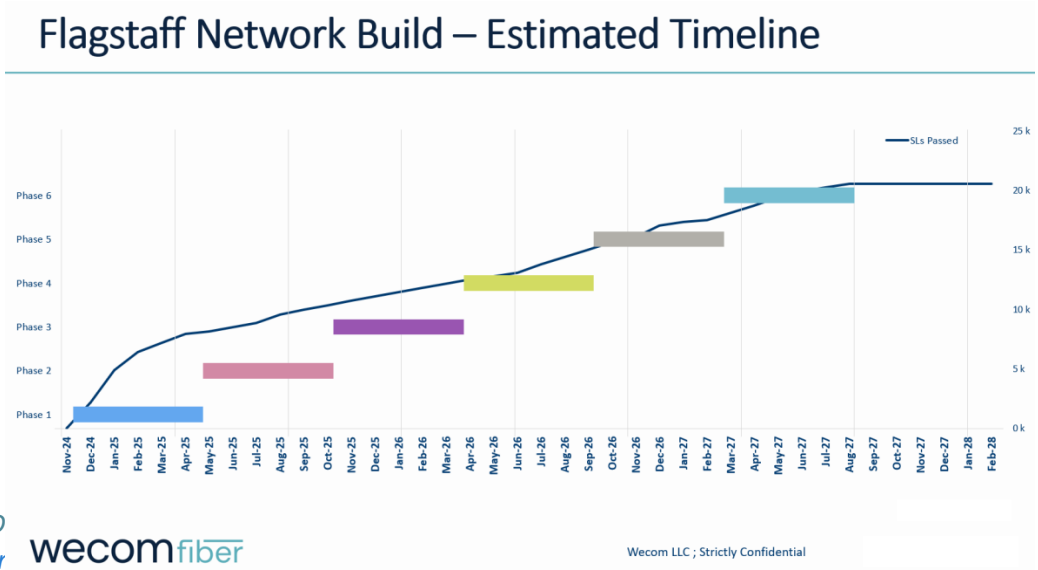
Timeline of construction

Upon award, Wecom expects to start permit applications within 30 days and construction within 90 days, subject to receipt of permits, licensing, and acceptable weather conditions for construction activity.

Given the number of homes in the unserved/underserved category, we estimate multiple construction zones. Each zone has a 4-8-4 timeline (four (4) weeks for engineering/permitting, eight (8) weeks for construction, and four (4) weeks for splicing/activation/turn-up), our internal standard for timeline and resource deployment. Each zone and timeline will occur on a progressive, rolling schedule following this methodology: multiple zones are in progress at one time, another zone enters the final activation phase, and the next is already in engineering and permitting to be queued for construction. Given this timeline and schedule, the project is estimated to be complete in two years or less.

Wecom has a track record of delivering projects on time and within budget. For example, our most recent fiber project, completed in 2023 in Mohave County for Angle Homes, constructing over 100 miles of fiber, was completed four weeks before the scheduled completion date.

We prefer to partner with Flagstaff to take an active role in permitting assistance to process permits as efficiently as reasonably possible. Wecom would work with Flagstaff's planning and zoning department to maximize dig-once opportunities and use the least expensive routes (aerial versus underground).



OVERALL D

What techn

Wecom proposes a 100% fiber network covering 95% of Flagstaff. Wecom's core network relies on all carrier-grade Juniper Networks routing and switching systems with fault tolerance and redundancy. Dense wavelength-division multiplexing (DWDM) and fiber backbone networks are built on leading Ciena fiber platforms for middle-mile, metro access, and service aggregation. All network electronics are spared locally, have high-tier service and support plans with the equipment vendors for rapid support or replacement.

Existing relationships with Calix and Ciena give the Wecom network immediate access to 10 Gigabit Symmetrical Passive Optical Network (XGS-PON) technologies. XGS-PON from the network to the subscriber location provides up to 10 Gbps symmetrical, already built into the network as demands for higher bandwidth connections rise.

Wecom will offer symmetrical plans up to 10 Gbps with the network designed for and ready to provide higher plans as the demand rises.

Wecom's proposed FTTx/FTTP PON network will connect to and utilize its existing and redundant core network infrastructure.

What percentage of aerial fiber versus buried fiber are you proposing?

Wecom propose to build a citywide fiber broadband network covering approximately 1,128,000 feet of fiber, 382k ft aerial and 746k ft underground. Wecom will use underground methods that are the least impactful to the daily activity within that section. These methods consist of boring (primarily), trenching, and alternative trenching methods.

Wecom already has joint usage agreements with APS and will only be using already existing infrastructure (no new poles will be constructed).

Describe your design philosophy for determining the size of customer nodes and for the expected level of oversubscription.

Wecom designs its subscriber projects to use Centralized Split network topology. As a result, one electronics cabinet can serve a high number of subscribers. In newer XGS-PON deployments, the E7-2 card supports 128

ONTs per port. Wecom reduces this to a 1:64 Split in the design to prevent high port oversubscription and ensure subscribed bandwidth is available to all subscribers.

In this fashion, the Centralized Split reduces active fiber distribution/electronic cabinet fiber capacity requirements by more than 75%, allowing for reduced cabinet size and easier placement. Centralized fiber sizes have also been reduced by over 75%, reducing cable and installation deployment costs, splice closures, and splicing labor. In addition, centralized field installation allows for quick, accurate, and cost-effective construction and deployment of the network.

Wecom uses FCC Broadband Serviceable Location data to calculate network capacity planning to provide an open port/passing to all existing structures. In addition, Wecom uses County and City GIS data to determine future lot development to accommodate new construction in build areas.

Wecom's design process prevents excessive oversubscription to ensure service delivery to subscribers and prevents "slowdowns" when network demand is high, such as evenings or major events. The design process also ensures that every serviceable location can be connected to the network and no potential subscriber is turned away.

WECOM TECHNOLOGY

PON is a point-to-multipoint technology that connects an Optical Line Terminal (OLT) to many Optical Network Terminals (ONTs) or Optical Network Units (ONUs). PON networks utilize passive splitters between the OLT and ONT, offering service providers flexibility in designing the network. The OLT broadcasts traffic downstream to every ONT, and each ONT only reads the content addressed to it.

Encryption prevents ONTs from eavesdropping on traffic not addressed to them. In addition, quality of service (QoS) features ensures proper service prioritization and delivery.

PON comes in distinct types. The Calix software platforms selected for this build support "everyPON" from GPON to XGS-PON and NG-PON2, as seen in the table below, to deliver flexible and differentiated services to subscribers. This project focuses on XGS-PON, but the "everyPON" option is available for community expansion.

WECOM'S PROPOSAL SUPPORTS "EVERYPON"

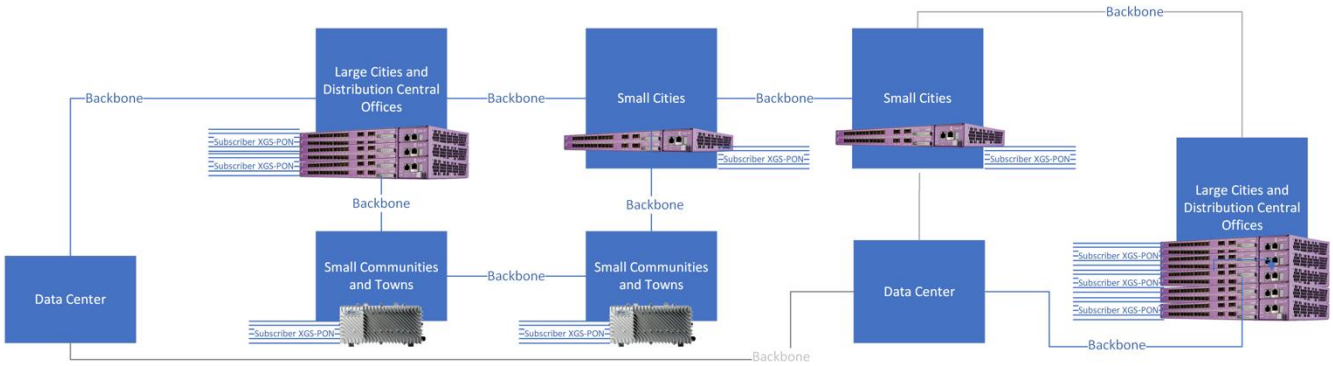
Technology	Standard	Bandwidth Options	Wavelengths	Primary Focus
XGS-PON	ITU G.9807.1	10G Down/10G Up	1577nm Down/1270nm Up	Residential/ Business/ MDU

Calix aggregation solutions deliver high-density aggregation and transport flexibility to support 10GE business and residential services and provide outside plant cost savings. Uplink and downlink aggregation can be provided using Gigabit Ethernet (GE) interfaces, ranging from 1GE, 10GE, and 40GE to 100GE. The following protocols are supported:

- ITU G.8032 Ethernet Ring Protection Switching (ERPS)
- IEEE 802.1w Rapid Spanning Tree Protocol (RSTP)
- IEEE 802.3ad/802.1AX Link Aggregation (LAG)

Calix Intelligent Access Edge systems can also interface with systems running Virtual Router Redundancy Protocol (VRRP) as defined by RFC 5798, VRRP Version 3 for IPv4 and IPv6.

EXAMPLE NETWORK BLOCK DIAGRAM

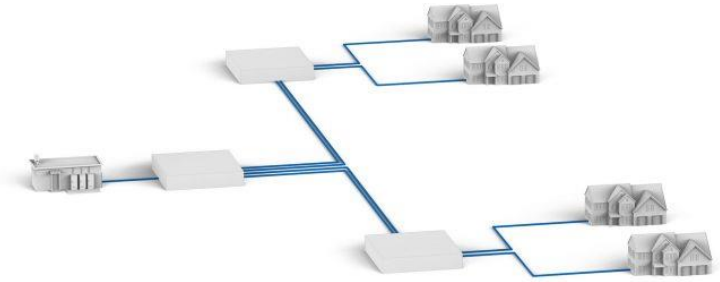


HARDWARE OPTIONS

High-density and middle-mile point-of-presence (POP) locations will utilize Calix E7-2 or E9-2 hardware to create redundant, high-capacity 100 Gbps and 200 Gbps network rings. Each E7-2 supports two XG801 cards. Each card supports eight XGS-PON ports, four SFP+ ports, and two QSFP-DD 40 Gbps or 100 Gbps ports. Multiple chassis units can be used for very high-density applications. Wecom also deploys the Ciena 5000-series fiber gear with 100, 200, and 400 Gbps backhaul between sites and access links.

Lower subscriber density areas will use the smaller Calix E3-2 aerial-mounted OLT to lower deployment costs and expedite subscriber connectivity timelines. As these communities grow, the E3-2 can be upgraded to a powered cabinet with an E7-2.

DIAGRAM OF A CENTRALIZED SPLIT NETWORK TOPOLOGY



Corning FlexNAP Centralized Split

SUBSCRIBER OPTIC NETWORK TERMINALS (ONTS)

Subscribers will receive an ONT to connect them to the fiber network with built-in wired LAN and dual-band Wi-Fi 6, Local Area Network (LAN) ports, and Plain Old Telephone Service (POTS) ports to support Voice over IP Phone Services, providing a plug-and-play install experience.

The WecomIQ app puts the consumer in control with network settings, password changes, parental controls, and service customizations available on their smartphone device. Wecom utilizes the Calix Support Cloud to manage and monitor subscriber ONTs for quick and responsive customer service. Outdoor, single-wired ports and other ONT options, such as enterprise and government services, are available for special installation.

SUBSCRIBER MANAGEMENT AND CENTRALIZED SUPPORT

Wecom uses an Operations Support System and Business Support System (OSS/BSS) software to centralize customer account management and provide comprehensive and proactive support.

Subscriber ONT and Wi-Fi management are integrated into Calix Support Cloud, providing insight into the subscriber connection using a Subscriber Qualify of Experience Score. This advanced, non-intrusive

monitoring helps Wecom deliver the promised speeds and an excellent quality connection to the subscriber. It also improves customer support request responses, reduces truck rolls by nearly 50%, and improves the overall consumer experience.

Subscribers are provided with a self-service portal for account management, payments, and support requests, a mobile app for managing network settings, Wi-Fi passwords, and optional services such as parental controls. Wecom's provider network is monitored 24/7/365 by our network operation center using industry-leading monitoring applications and notification systems – providing proactive and rapid response to any trouble on the network.

Using carrier-grade Juniper Networks routers, Wecom peers with Tier 1 internet carriers in our Las Vegas and Phoenix core data centers. Each core is directly connected in an Active/Active configuration to provide the highest automatic fault tolerance in case of rare hardware or upstream carrier failure.

Wecom data center locations are Tier III certified or higher, with 100% uptime Service Level Agreements with Wecom. Wecom has maintained a network ring in Mohave County to create a reliable, fault-tolerant network. This project brings the design to a greater scale to provide redundant and fault-tolerant services throughout Flagstaff. Automated designs allow for milliseconds or less network re-routing to keep the middle-mile network connected and critical traffic online during network upgrades, software updates, or unexpected fiber cuts.

MULTI-HOMED NETWORK

Wecom performs multi-homing of Wecom-provided IP space, increasing reliability and allowing for redundant internet routes if any Wecom-peered Tier 1 providers lose connectivity or undergo routine maintenance. Wecom's peers include multiple Tier 1 providers, including Level 3, CenturyLink (Lumen), Zayo, GTT, Cogent, and more. Wecom monitors our peering relationships and routes around providers who may have an issue further upstream from Wecom or the local region. Routing away from providers experiencing issues ensures connectivity for our customers. The Wecom network is BGP peered with IPv4 and IPv6 connectivity – ensuring our subscribers' access to the whole internet.

DISTRIBUTED DENIAL OF SERVICE (DDOS) PROTECTION AND MITIGATION

Wecom has maintained an always-on and always-ready Arbor Networks appliance at our network core to detect and automatically mitigate Distributed Denial of Service (DDoS) attacks toward our customers and network infrastructure. The Arbor Networks appliances and our leading-edge core routers automatically mitigate detected attacks without manual intervention. Wecom's threat protection is backed by industry-leading threat intelligence and is proudly provided to our customers as a service at no cost.

PROACTIVE MONITORING

Wecom uses a three-level Proactive Monitoring approach on our Direct Internet Access and Wide Area Network Transport offerings. Wecom monitors network, site, and customer statistics, including power, temperature, signal strength and quality, bandwidth utilization, latency, jitter, packet loss, interface errors, optical light levels, and BER/frame loss to ensure we are providing the highest quality connection and performance to our customers.

VALUE ADDED KNOWLEDGE AND EXPERIENCE

WECOM QUALIFICATIONS

Wecom continues to make significant strides in expanding rural fiber connectivity across multiple counties in Arizona, showcasing our commitment to bridging the digital divide.

- In just the last four months Wecom has built 400 miles of fiber and passed 2,000 service locations with multi-gigabit fiber broadband.

- Wecom has rented tower space on Mt. Elden in Flagstaff for more than 10 years. Wecom is experienced working in the harsh environment, snow, and rough weather conditions. Serving Flagstaff Unified School District during this time.
- Wecom competed in and won the Coconino County RFP to build a county wide fiber network and receive the support of the county for BEAD.
- In Mohave County, substantial progress has been made in rural fiber connectivity, with projects serving 7,700 households. These endeavors have been partially funded by the ABDG Grant, with more than 30 million in private funding. Additionally, we are finalizing 125 miles of middle and last mile builds to 1,500 households of the Hualapai Tribe through the USDA Reconnect grant. Our extensive network and more than 67 years of outstanding customer service have led to unanimous backing from the Mohave County Board of Supervisors for Wecom's BEAD initiative, evident in the resolution to support Wecom which passed on January 16th, 2024.
- In La Paz County, Wecom is advancing rural fiber deployment to 7,200 households, with partial funding coming from the ABDG Grant and an excess of 10 million from private funding. La Paz County unanimously passed an MOU supporting Wecom in the upcoming BEAD process and showing their faith in Wecom.
- In Yavapai County, Wecom is constructing fiber infrastructure to connect more than 6,500 homes, all of which are currently underserved ($8.1 million from the county and $13 million from Wecom).
- In Pinal County, Wecom's work underscores our commitment to enhancing connectivity and fostering economic growth. In particular, the City of Superior pilot project, funded entirely by private investment, has achieved remarkable success. Wecom completed a multigigabit fiber build, connecting vital community infrastructure such as the City of Superior Enterprise Center and the City Hall. Similarly, the City of Casa Grande pilot project, also privately funded, is currently in the development stage. Plans are underway to connect the Airport and Airport Airpark, a move that will benefit over 45 local businesses. By extending high-speed internet to these key economic hubs, we aim to spur growth, increase efficiency, and enhance competitiveness for businesses in the area.

Projects like these demonstrate that Wecom acts proactively to connect residents and businesses. We leverage private investment to drive positive change and bring the benefits of broadband access to communities throughout Arizona. We do what we say we will do, and we work well with our partners to get the job done.

Using the public-private partnership model, centered around Wecom's whole county approach, Wecom aims to build more than 100,000 locations in Arizona consisting of homes and businesses.

Nothing demonstrates your qualifications better than being recognized by the best in the industry, who trust you with private capital and promote the work you do. As a result of Wecom's proven successes, Searchlight Capital Partners, the nation's leading investor in fiber broadband to the home, partnered with co-investor Simple Broadband for a strategic investment in Wecom in early 2023. This substantial investment has funded Wecom's expansion throughout Arizona, with hundreds of millions of dollars fueling our growth.

With the support and resources provided by Searchlight and Simple Broadband, Wecom is well-positioned to expand its operations to deliver high-quality broadband services to communities across Arizona.

Established in 1950s Arizona, Wecom's model prioritizes closing connectivity gaps, offering optimal solutions for its areas, and supporting key anchor institutions like schools, hospitals, fire departments, and public safety. We are committed to delivering best-in-class service, dependable networks, future-proof designs, and fostering community growth.

Wecom would schedule bi-weekly meetings between key decision-makers in Flagstaff and our team. Flagstaff attendees typically include project manager, planning and zoning (permits), general counsel, IT department, and procurement. From Wecom, attendees include SVP of Sales and Marketing, Network Director, Construction Director, General Counsel, Grant Manager, Finance, and Procurement. These calls provide updates and address issues, conducted via video conference (except every other month, which is in person). The COO remains informed, and decisions on concerns or changes are made within 48 hours.

Operating in Arizona for more than 67 years, Wecom has created a great relationship with BLM, National Forest Services, State Land, BIA, and more. Using both internal and external counsel Wecom stays very knowledgeable of case law related to land use and zoning. Wecom also continually works with the Nation Environmental Protection Agency. The Wecom team is extremely well versed and education on all forms of permitting (State, County, BLM, ADOT, City, Forestry, and more).

NATIVE AMERICAN TRIBAL LANDS

Wecom has experience connecting tribal nations – most recently extending connectivity to the Hualapai Tribe- a $4 million dollar project to build more than 120 miles of fiber connecting and covering the Hualapai Tribe and its anchor institutes. The Hualapai Tribe is now partnering with Wecom to apply for BEAD and build fiber to all residents on their Native American land. We are participating in the Broadband Initiative on the Navajo Nation and staying abreast of other broadband initiatives on tribal lands to ensure we design networks with potential tribal partnerships in mind. Respecting the sovereignty of tribal broadband planning, Wecom recently met with the Yavapai Apache Nation counsel to begin conversations on how Wecom can assist a fiber build there, partly leveraging the broadband planning grant the Nation received in 2021, and we stand ready to assist them in moving forward. We look forward to continuing those conversations and engaging many other potential partners.

COMMITMENT TO DIGITAL EQUITY, INCLUSION, AND COMMUNITY ENGAGEMENT

Wecom is committed to ensuring that broadband services are accessible for all. To achieve this goal Wecom participates in programs such as the Affordable Connectivity Program (ACP), Rural Health Care program administered by the Universal Service Administrative Company (USAC), and the Rural Education program (E-rate). Additionally, we participate in the Lifeline program, which provides discounted phone and internet services too. Eligible low-income households. Wecom continues to enhance its Digital Inclusion Plans to keep Arizonans connected, ensuring opportunities for all.

Wecom also plans to include affordable service options to non-profit organizations supporting communities, by encouraging participation in all available federal, state, and local subsidies, and by coordinating access to education services in areas serviced by the Wecom network. Wecom is also making concerted marketing and advertising efforts to push affordability and inclusion to the forefront, creating an awareness campaign to raise awareness among all eligible customers.

On November 14th, 2023, Governor Katie Hobbs and Wecom Fiber were joined by local, federal, and tribal officials as they broke ground on a project that will deliver affordable, high-speed internet to an estimated 32,500 Arizonans across Mohave and La Paz counties and the Hualapai Reservation. Construction of the 2,250 miles of multi-gigabit broadband fiber will facilitate an estimated 250 jobs in the near-term, but has much broader economic, educational, and other benefits for Arizona communities that have gone without for years. In February, Wecom broadband internet will begin for the first customers in Mohave and La Paz Counties, as well as the Hualapai Reservation. You can read the press release from this event here.

Wecom is working to provide services that will offer more equitable internet access and faster and more affordable service for Arizonans, aligning with the goals of the Biden Administration's Justice40 initiative to deliver at least 40% of the overall benefits from Federal investments to disadvantaged communities.

Additionally, Wecom proudly attended the prestigious 35th annual ATHENA Awards and Annual Meeting, reaffirming our commitment to community engagement and support. As a platinum sponsor of the event, we were honored to join over 550 esteemed business leaders gathered by The Greater Flagstaff Chamber of Commerce.

The event's highlight was the recognition of the nationally acclaimed ATHENA Award nominees and recipients, showing excellence in the public and private sectors. Additionally, the inclusion of the ATHENA Young Professional award highlighted the Chamber's dedication to fostering emerging talent. Keynote speakers Arizona Governor Katie Hobbs and Dr. Kara Christ, Chief Medical Officer of Blue Cross Blue Shield of Arizona, drove home the point of digital inclusion today Our involvement in events like these exemplifies our dedication to community empowerment and advancement, driving us closer to achieving our goal.

MANAGEMENT RELEVANT PERSONNEL

Wecom is a leading telecommunications company poised to address the connectivity needs of Flagstaff and its surrounding areas. With a seasoned team of executives boasting extensive experience in telecommunications, regulatory compliance, and infrastructure implementation, Wecom is well-equipped to deliver reliable and tailored solutions to the region. As the demand for robust telecommunication services continues to rise, Wecom stands ready to meet the challenges and become the go-to provider for residents and businesses in Flagstaff.

Executive Leadership

Chief Executive Officer: Paul Fleming

With over two decades of executive, technical, and engineering expertise, Paul Fleming leads Wecom with a focus on innovation and strategic growth, realizing more than 12,000% growth. His leadership has propelled Wecom's expansion into new markets, including Flagstaff, where he has overseen the deployment of complex telecommunication solutions. Paul's background in managing federally funded projects, such as the U.S. Department of Agriculture's ReConnect Pilot Program and the Arizona Broadband Development Grant, demonstrates his ability to navigate regulatory requirements and deliver high-quality services in diverse environments.

Chief Financial Officer (CFO): Andres Sole

As CFO, Andres Sole brings a wealth of experience in finance and business operations to Wecom. His strategic approach to managing supply chains and overseeing market expansion has been instrumental in driving the company's growth, particularly in underserved communities like Flagstaff. Andres's expertise in developing market strategies and reducing costs ensures Wecom can offer competitive pricing while maintaining profitability.

General Counsel: Louise Botham

Louise Botham's legal expertise is invaluable in navigating regulatory compliance and risk management in the Flagstaff area. With over 20 years of experience, Louise has provided outcomes-oriented legal advice in various settings, including technology licensing and strategic alliances. Her international experience ensures Wecom operates within local codes and standards while mitigating legal risks effectively.

Chief of Staff: Noelle Fleming

Noelle Fleming's role as Chief of Staff is crucial in ensuring operational excellence and strategic alignment within Wecom. With a background in financial planning and analysis, Noelle brings a data-driven approach to decision-making, optimizing resource allocation and maximizing profitability in the Flagstaff market. Her expertise in process improvement and contract negotiations streamlines operations and enhances Wecom's competitive advantage.

Director of Finance: Joey Bringhurst

Joey Bringhurst is a seasoned financial leader with over 15 years of expertise in managing fiber projects. His track record of success blends financial acumen, pricing strategy finesse, and operational excellence, prioritizing team dynamics, customer-centric values, and delivering exceptional results. He holds Bachelor of Business Administration in Finance and a Minor in Spanish from the University of Oklahoma, and a Master of Business Administration in Finance and International Business from Arizona State University.

SVP of Sales: Strider G. Denison

As Senior Vice President of Sales and Marketing at Wecom, Strider Denison leverages over 25 years of telecommunications leadership. With a career spanning Fortune 50 companies and startups, he excels in driving sales, operations, and marketing strategies nationwide. Strider's expertise lies in identifying new markets, developing innovative products, and spearheading revenue growth, having generated millions in new revenue streams. A Southwest native, Strider holds an MBA from Eastern Washington University and a BS in Marketing and International Business, underscoring his commitment to excellence and innovation in the industry.

Network Director: Kristopher Minnich

Kristopher Minnich's leadership in overseeing carrier ISP networks and fiber deployments is instrumental in delivering reliable telecommunication services to Flagstaff. With over 13 years of experience, Kristopher has managed the design and build of millions of feet of fiber infrastructure, ensuring robust network performance and scalability to meet the growing demands of the Flagstaff community.

Technical Expertise

Senior Fiber Planning and Design Engineer: David Tolbert

David Tolbert's expertise in planning and implementing fiber infrastructure is essential for Wecom's success in Flagstaff. With over 31 years of experience, David specializes in engineering, permitting, and right-of-way acquisition, ensuring compliance with local regulations and industry standards. His proficiency in automated mapping software and facility management systems enables precise planning and execution of telecommunication projects in Flagstaff.

OSP Engineer: Jim Bishop

Jim Bishop, MBA holder with 20+ years in telecom, excels in capital management and project strategy. He is known for founding departments at AT&T, leading key projects like LightGig rollout, and achieving 99% success rates in permitting. With expertise in FTTP/FTTN and strong leadership, Jim drives transformative initiatives in telecommunications. His record of accomplishment speaks volumes, reflecting his commitment to innovation and excellence in every endeavor. Jim's strategic acumen and industry experience position him as a pivotal asset in navigating the ever-evolving landscape of telecommunications.

Project Management Excellence

Director of Construction: Patrick Fleming

Patrick Fleming is a seasoned leader with over a decade of experience at Wecom, preceded by 11 years in project management and engineering roles. He specializes in cellular and tower construction, adeptly overseeing all facets of the construction department, from personnel to finance. Patrick is dedicated to maximizing efficiency and savings, ensuring Wecom's profitability through strategic training and performance evaluation. Holding a Bachelor of Science in Mechanical Engineering from the University of Oklahoma, his expertise and leadership drive excellence in construction management

Project Manager: Justin Gill

Justin Gill's role as a Project Manager is pivotal in ensuring the timely and efficient execution of telecommunication projects in Flagstaff. With 10 years of experience in fiber design and construction planning, Justin oversees all aspects of the project lifecycle, from design to construction, ensuring adherence

to quality standards and regulatory requirements. His attention to detail and expertise in AT&T LightGig and backbone projects make him a valuable asset to Wecom's Flagstaff operations.

Project Manager: Dan Pastar

Dan is a project manager with 25 years of experience nationwide in construction, project, and management of wireless construction, fiber optics construction, tower erection, site acquisition, job scoping and engineering. He has worked for/with DISH Wireless, Roaming Networks, Essentia. Inc., AT&T and Broadstaff LLC. He has filled several roles including but not limited to construction manager, Safety Officer, and Operations manager. He brings a strong knowledge base and will be vital in the project management of all Wecom projects.

Construction Manager: Justin Brown

Justin Brown's frontline leadership ensures the safe and efficient execution of construction activities in Flagstaff. With over 10 years of experience in telecom construction and a background in federal land laws and historical site preservation, Justin's expertise in crew management and job safety minimizes project risks and enhances operational efficiency in challenging terrain.

Permit Specialist: Sam Binsley

Samuel Binsley's role as a Permit Specialist is crucial for navigating regulatory requirements and securing permits for Wecom's projects in Flagstaff. With experience in OSP permitting disciplines and a background in the United States Air Force, Samuel's attention to detail and project management skills ensure compliance with local regulations and timely project delivery.

CAD Drafting Precision

CAD Drafter: Josue Romero

Josue Romero's proficiency in architectural and engineering drafting ensures accurate planning and design of telecommunication infrastructure in Flagstaff. With over 10 years of experience and expertise in AutoCAD and blueprint interpretation, Josue's meticulous approach to CAD drafting guarantees high-quality documentation and coordination of Wecom's projects in Flagstaff.

Conclusion

Wecom's diverse team, led by seasoned executives and bolstered by skilled professionals, possesses unique qualifications to provide top-tier telecommunication services in Flagstaff. Our expertise spans executive leadership, technical infrastructure implementation, project management, regulatory compliance, and precise CAD drafting. This combination equips Wecom to adeptly address the distinct needs of the Flagstaff community with effectiveness and efficiency. The individuals listed above represent just a snapshot of Wecom's extensive and accomplished team. Furthermore, detailed experience profiles are available upon request.

OVERALL EVALUATION

Two examples demonstrate Wecom's fiber communities. (1) In Kingman Arizona Wecom partners with Angle Homes to build fiber broadband into all of the Angle Home communities. Wecom has built more than 1,000 service locations for Angle Homes. (2) Wecom also built the first fiber network in the Kingman Airport Industrial Park making service available to every business in the park. The table below will demonstrate: Pricing, Average speed, Maximum speed, Customers Satisfaction, and latency.

Service Plan	Advertised Price	Average Download	Average Upload	Average Latency	Customer Satisfaction	Reference Contact
Home 500 Mbps	$70	508 Mbps	466 Mbps	21 ms	High/No Support Contacts/Good quality	Angle Homes, Developer. Customer contact in the reference appendix

					of experience reporting.	
Home 1 Gbps	$90	1096 Mbps	994 Mbps	22 ms	High/No Support Contacts/Good quality of experience reporting.	Angle Homes, Developer. Customer contact in the reference appendix
Home 2.5 Gbps	$135	2209 Mbps	2469 Mbps	22 ms	High/No Support Contacts/Good quality of experience reporting.	Angle Homes, Developer. Customer contact in the reference appendix
Business 1 Gbps	$185	1123 Mbps	1005 Mbps	24 ms	High/No Support Contacts/No SLA Claims	Private Industrial Park customers, contact is available by coordination.
Business 2 Gbps	$265	2187 Mbps	2028 Mbps	21 ms	High/No Support Contacts/No SLA Claims	Private Industrial Park customers, contact is available by coordination.

APPENDIX 1– SIGNED DOCUMENTS – ATTACHMENT A

H. **Required Attachments**

Complete and include the following forms which are included as Attachment A to this RSOQ:

1. Contractor Questionnaire (see form)
2. Exceptions (see form)
3. Confidential Materials (see form)
4. Cooperative Purchases (see form)
5. Disclosure (see form)
6. References (see form)
7. References (see form)
8. Declaration Related to Solvency (form)
9. Declaration Related to Gratuities (form)
10. Declaration of Non-Collusion (see form)
11. Declaration Related to Adverse Position (form)

All completed forms must be submitted with SOQ.

ATTACHMENT A
REQUIRED FORMS

CONTRACTOR QUESTIONNAIRE (FORM)

Contractor:

Company Name: Wecom LLC

Doing Business As (if different than above): Wecom Fiber

Address: 2332 Kingman Ave.

City: Kingman State: AZ Zip: 86401 -

Phone: 928-753-3829 Fax: 928-753-5991

E-Mail Address: Paul@wecomfiber.com Website: wecomfiber.com

Taxpayer Identification Number: 86-0382295

Mailing Address (if different than above):

Address: same

City: same State: Zip: -

Contractor Contact for Questions about SOQ:

Name: Paul Fleming Fax: 928-753-5991

Phone: 702-344-0375 E-Mail Address: paul@wecomfiber.com

Transaction Privilege (Sales)Tax/Use Tax Information (check one):

_____ Contractor is located outside Arizona (The City will pay use tax directly to the AZ Dept of Revenue)
OR
__X__ Contractor is located in Arizona (The Contractor must invoice the applicable state and local tax to City, and remit taxes.)

Arizona Department of Revenue TPT License Number: 08010307-F (Attach proof of registration)

Business License Information (check one):

__X__ Contractor does not have a business location within the City of Flagstaff
OR
_____ Contractor has a business location (uses a building) within the City of Flagstaff

Wecom has an office in Prescott, and will open an office in Flagstaff and apply for a Biz License.

Flagstaff TPT/Business License Number: _____

Other Licenses (list any existing licenses you have required for work, e.g. Arizona Registrar of Contractor licenses, and attach copies):

EXCEPTIONS (FORM)

Notations. Any strikeouts, notes or modifications to the Solicitation documents shall be initialed in ink by the authorized person who signs the SOQ. If notations are made, they must be submitted with your SOQ and are considered Exceptions.

Exceptions: In addition to any notations on the Solicitation documents, please identify and list any exceptions to the Solicitation, by section/paragraph, on this Exceptions Form. The City reserves the right to reject, accept or further negotiate Exceptions. Exceptions may render the SOQ non-responsive.

Exceptions to Form of Contract: You may request changes to the form of contract (including any Standard or Special Terms and Conditions) on the Exceptions Form. You may also submit your own form of contract. The City will consider these in the same manner as any other exceptions.

You must indicate any and all exceptions taken to the requirements, specifications, and/or terms and conditions of this Solicitation, including the contract.

Exceptions (INITIAL ONE):

X_____ No exceptions

_____ Exceptions taken (describe). Attach additional pages if needed.

CONFIDENTIAL MATERIALS (FORM)

If you believe part of your SOQ is confidential, mark the page(s) "CONFIDENTIAL" and isolate the pages as an attachment to this form. Also include an explanation why they are confidential.

Requests to deem the entire SOQ as confidential will not be considered.

If you want confidential information returned to you after contract award (and you are not selected for contract award), then note this below. You will be responsible for pick up.

Generally, information submitted in response to a Solicitation is subject to disclosure pursuant to the Arizona Public Records Law after contract award.

The information identified as confidential shall not be disclosed until the City makes a written determination whether the information may be treated as confidential. If the City determines it is necessary to disclose the information, the City will inform you in writing.

Confidential/Proprietary Materials (INITIAL ONE):

X No confidential/proprietary materials have been included with this SOQ

_____Confidential/Proprietary materials are included in this SOQ. See attached.

COOPERATIVE PURCHASES (FORM)

The City of Flagstaff is a member of Flagstaff Alliance for the Second Century, along with the Coconino County Community College District, Northern Arizona University, Coconino County and Flagstaff Unified School District. The City is also a member of S.A.V.E. (Strategic Alliance for Volume Expenditures), which consists of numerous municipalities, counties, universities, colleges, schools and other Arizona State agencies. Cooperative purchasing arrangements such as the above are sanctioned by state law and allow a Contractor to sell services and materials to any member of a cooperative group under the same pricing, terms and conditions of contract awarded to the Contractor by any other member, following a competitive procurement process.

Is your company willing to offer the goods and services solicited under the terms and conditions of this solicitation to other members of the Flagstaff Alliance for the Second Century and S.A.V.E. under the same pricing, terms and conditions?

Yes _____ No (INITIAL ONE)

If you answered No, that is acceptable. The City will not reject your SOQ or consider it to be non-responsive. If you answered Yes, and a contract is approved, others may seek to do business with you under the same terms and conditions, subject to your approval.

DISCLOSURE (FORM)

For any item checked YES, you must provide information. Answering YES to one or more questions does not necessarily mean you will be disqualified from this Solicitation. **FAILURE TO PROVIDE TRUE AND COMPLETE INFORMATION MAY RESULT IN DISQUALIFICATION FROM THIS SOLICITATION.**

1. Has your company or any affiliate* in the past 5 years: (i) had a permit revoked or suspended, (ii) been required to pay a fine, judgment or settlement of more than $100,000, (iii) been convicted of a criminal offense (including a plea of guilty or *nolo contendere*), or (iv) been found in contempt of court, as a result of or in connection with any of the following:

   a. Any offense relating to integrity or honesty, including fraud, bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, theft, price fixing, proposal rigging, restraint of trade or other antitrust law violation? YES_____ NO X

   b. Violation of the terms of any public contract? YES_____ NO X

   c. Failure to pay any uncontested debt to a government agency? YES_____ NO X

   d. Violation of any law or regulation pertaining to the protection of public health or the environment? YES_____ NO X

*An "affiliate" of your company means any person, company or other entity that, either directly or indirectly (for example, through stock ownership by family members), controls, is controlled by, or is under common control with, your company.

2. Has your company or any affiliate in the past 5 years been named as a party in any lawsuit related to performance of a contract (you do not need to list subcontractor lien claims which have been fully paid/satisfied)?

   YES_____ NO X

3. Has your company or any affiliate of your company in the past 5 years been debarred or suspended from submitting SOQs on public contracts?

   YES_____ NO X

I hereby verify that the foregoing information, and any explanation attached are to the best of my knowledge, true and complete.

Signature of Person Authorized to Sign SOQ

REFERENCES (FORM)

REFERENCES. Please submit at least three (3) and no more than five (5) references for projects your Contractor has performed in the last five (5) years demonstrating your experience with providing materials and/or services comparable to the Solicitation. The project description should include sufficient detail for the City to evaluate your experience. Also include the name, title, and telephone number of both the current Contractor owner and the Contractor owner at time of work.

Contractor/Government Agency Name: Mohave County	
Contact Person: Sam Elters	Phone: 928-753-0729
Title: County Manager	Fax:
Address: Mohave County AZ	E-Mail Address: ElterS@mohave.gov
	Reason for Selecting as Reference: Full County solutions
Project Date, Size, Complexity, Scope and Duration: 7,500 households, over 20 million, all fiber build with multi gigabit. Building 700 miles of fiber.	
Contractor/Government Agency Name: Angle Homes	
Contact Person: Travin Pennington	Phone: 928-530-1153
Title: Project Manager	Fax:
Address: Kingman AZ	E-Mail Address: travin@anglehomes.com
	Reason for Selecting as Reference: Master planned communities
Project Date, Size, Complexity, Scope and Duration: Built more than 1,000 new homes in Kingman AZ. Connected every single home with multi gigabit fiber.	
Contractor/Government Agency Name: Mohave Community College	
Contact Person: Justin Smith	Phone: 928-757-0863 ext 1163
Title: Network Engineer	Fax:
Address: Kingman AZ	E-Mail Address: JuSmith@mohave.edu
	Reason for Selecting as Reference: Educational services

Project Date, Size, Complexity, Scope and Duration: More than 8 sites connected via Metro E and providing DIA	
Contractor/Government Agency Name: Hualapai Tribal Government	
Contact Person: Mikel Allen	Phone: 928-220-7666 ext 3
Title: IT Director	Fax:
Address: Peach Springs AZ	E-Mail Address: Mikel.Allen@hualapai-nsn.gov
	Reason for Selecting as Reference: Native American network build
Project Date, Size, Complexity, Scope and Duration: Deploy backhaul and fiber to the Hualapai Tribe	
Contractor/Government Agency Name: Arizona State Broadband Office	
Contact Person: Sandip Bhowmick	Phone: 310-923-5524
Title: Broadband Director	Fax:
Address: Phoenix, AZ	E-Mail Address: sandipb@AZcommerce.com
	Reason for Selecting as Reference:
Project Date, Size, Complexity, Scope and Duration: Arizona Broadband Grant - $10 million dollar build.	

DECLARATION RELATED TO SOLVENCY (FORM)

Is the Contractor currently involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or has a trustee or receiver been appointed over all or a substantial portion of the property of your Contractor under federal bankruptcy law or any state insolvency law?

_____ Yes ___X___No (INITIAL ONE)

DECLARATION RELATED TO GRATUITIES (FORM)

I hereby verify and declare that, to the best of my knowledge, neither the Contractor nor anyone associated with the Contractor has given, offered to give, or 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 SOQ ("Gratuities").

_____
Signature of Person Authorized to Sign SOQ

DECLARATION OF NON-COLLUSION (FORM)

I hereby verify and declare that:

The pricing for this SOQ has been arrived at independently and without consultation, communication or agreement with any other Contractor who may submit a SOQ.

The pricing for this SOQ has not been disclosed to any other Contractor who may submit a SOQ, and will not be, prior to the Closing Date and Time.

No attempt has been made or will be made to induce any Contractor or person to refrain from submitting a SOQ, or to submit a SOQ with higher pricing than this SOQ, or to submit an intentionally high or noncompetitive SOQ or other form of complementary SOQ.

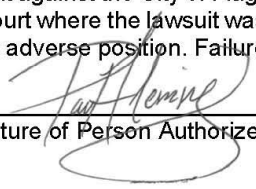
This SOQ is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any Contractor or person to submit a complementary or other noncompetitive bid.

The Contractor agency, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

_____
Signature of Person Authorized to Sign SOQ

DECLARATION RELATED TO ADVERSE POSITION (FORM)

I hereby verify and declare that, to the best of my knowledge, neither the Contractor nor anyone associated with the Contractor have ever made a claim against the City of Flagstaff, filed suit against the City of Flagstaff, or taken an adverse position in a lawsuit filed against the City of Flagstaff. If the Contractor has ever made a claim, filed suit, or taken an adverse position in a lawsuit against the City of Flagstaff, identify the name of the parties, the year the action was taken, the court where the lawsuit was filed and the case number. Additionally, provide a brief description of the adverse position. Failure to provide this information may result in a rejection of the SOQ.



Signature of Person Authorized to Sign SOQ

Appendix 2– financial viability - SEARCHLIGHT CAPITAL AND SIMPLE broadband

March 16, 2024

RE: RSOQ 2023-64 for Fiber Provider Municipal Partner
To: Teddy Callan

On behalf of Searchlight Capital Partners, L.P. ("Searchlight") and Simple Broadband LLC ("Simple"), we are pleased to submit this letter in support of the response of Wecom LLC. ("Wecom") to the City of Flagstaff's Request for Statement of Qualifications (RSOQ). Searchlight and Simple recently invested in Wecom precisely to provide the necessary capital and all other necessary support for Wecom to successfully win and execute projects such as the one they are proposing. *See* "Arizona-Based Broadband Provider Wecom to Expand High-Speed Fiber Service as Part of Strategic Investment from Searchlight Capital Partners" (May 15, 2023), https://finance.yahoo.com/news/arizona-based-broadband-provider-wecom-130000784.html.

Searchlight and Simple are private investment firms engaged in expanding broadband access to unserved and underserved areas throughout the United States, particularly using Fiber to the Home ("FTTH") technology. Searchlight has over $13 billion of assets under management with extensive expertise investing in the global telecommunications and media sectors. Over the last three years, Searchlight has invested in excess of $1.25 billion in FTTH in the United States, making Searchlight the largest investor in domestic FTTH infrastructure in that period. And as of today, through its investments in Wecom, Consolidated Communications, Ziply Fiber, All Points Broadband ("APB"), and most recently Mainstream Fiber Networks, Searchlight is the fourth largest builder of FTTH passings in America. These companies benefit from the tremendous volume purchasing arrangements for Searchlight's portfolio companies, which ensure availability of required supply and the best available pricing.

The Searchlight team is represented by Darren Glatt, who has worked with these broadband operators and many others around the world including as a Board Member of Mainstream Fiber, Charter Communications, and APB in the U.S., and Bezeq, Israel's largest telecommunications company. Darren also is a full-time resident of Sedona and has a unique appreciation for the community's digital infrastructure needs, specifically across residents, businesses, enterprises, educational institutions, law enforcement agencies, fire, local government, among others. In addition to Darren, Ajit Pai is another Searchlight Partner who oversees the investment in Wecom. Previously, Ajit served as a Commissioner (2012-2017) and then Chairman (2017-2021) of the Federal Communications Commission.

Simple works with Searchlight as a co-investor and helps to identify operators around the country with promising business plans to extend middle mile and FTTH networks to underserved areas. Simple's principals have decades of experience investing in and operating broadband businesses in the U.S., Europe and Latin America, with a particular focus on helping small operators grow and

succeed. They have enabled start-ups to scale to serve hundreds of thousands of subscribers and have worked closely with Searchlight in the state of Arizona.

A good example of Searchlight and Simple's approach is their 2021 investment in APB, an operator currently building FTTH networks in unserved and underserved counties in the Commonwealth of Virginia. APB has established public-private partnerships with 21 counties in Virginia to build and operate FTTH networks in previously unserved areas and is the largest recipient of funding through the Virginia Telecommunications Initiative (~$300 million), the analog to Arizona's Broadband Development Grant Program. Searchlight and Simple have contributed substantial private capital to APB to supplement federal, state, and local subsidies. This funding will ensure that best-in-class networks are built throughout the target counties and will connect thousands of consumers who for too long have been on the wrong side of the digital divide, even those who live in the most difficult-to-reach locations. APB—in cooperation with Searchlight and Simple—is working closely with state and county officials, electric utilities, and other stakeholders as it designs, builds, and operates the networks in a manner that serve the needs of each particular county well for many years to come.

We look forward to the opportunity to help close the digital divide in Flagstaff and stand ready to provide, through our investment in Wecom, the necessary private capital to make it a reality.

Sincerely,

Darren Glatt
Partner & Head of Infrastructure Investing
Searchlight Capital Partners, L.P.

Darren Glatt (Mar 18, 2024 20:07 EDT)

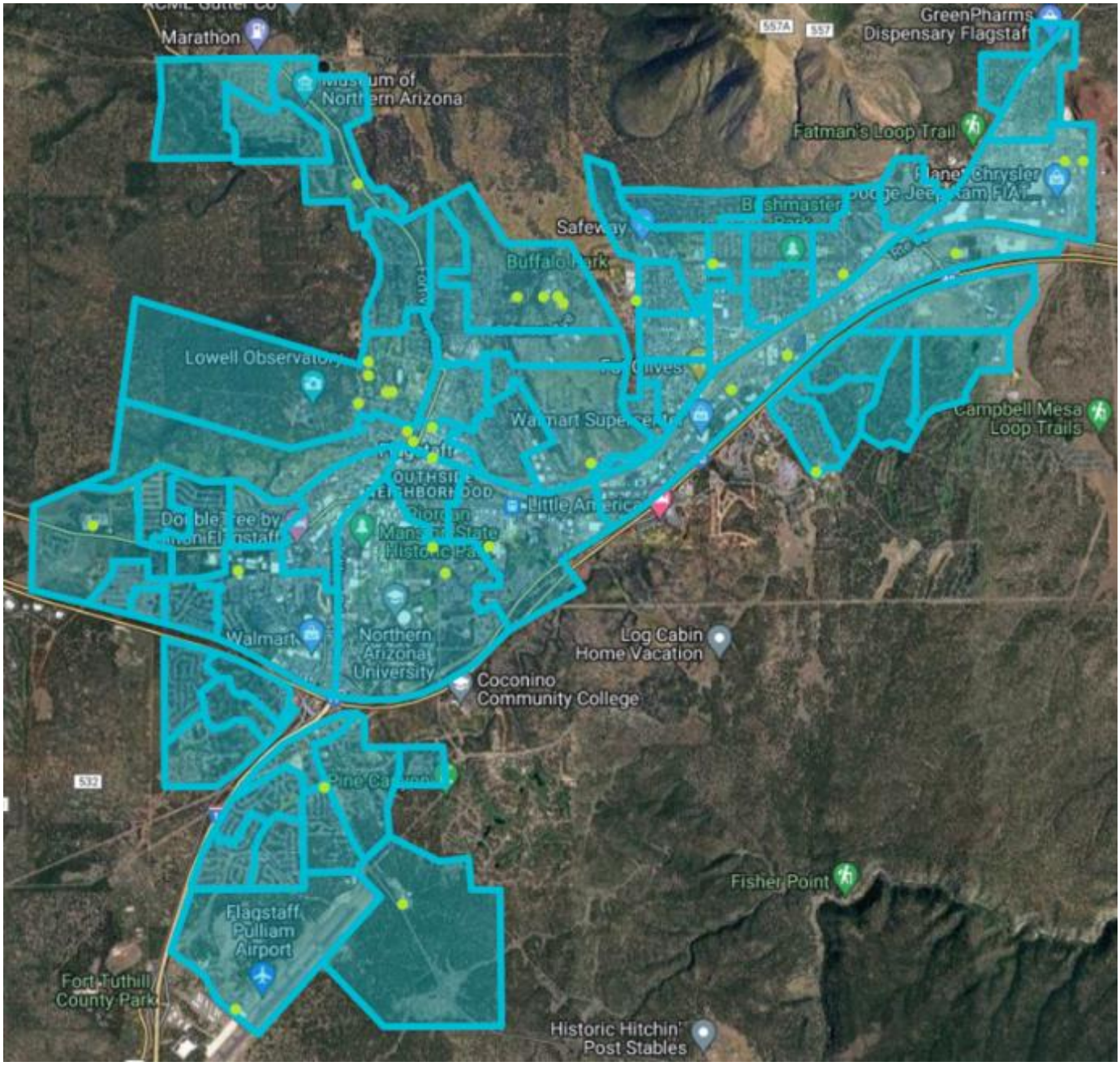
Evan Grayer
Co-Founder
Simple Broadband LLC

Evan Grayer (Mar 18, 2024 18:58 MDT)

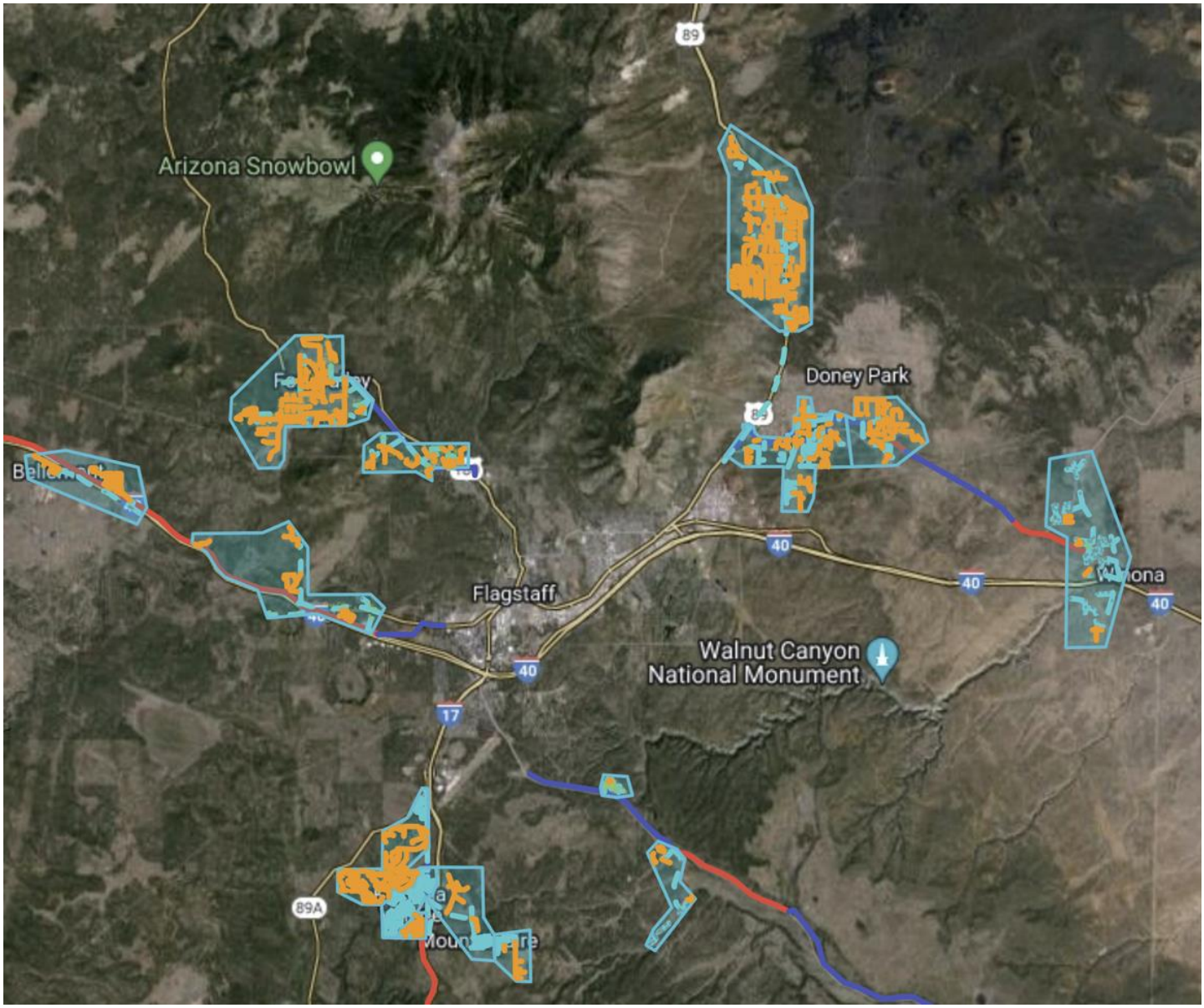
Nothing contained herein shall constitute an offer, an acceptance, or a legally binding obligation of Searchlight Capital Partners, L.P., Simple Broadband LLC, their affiliates, or any other party.

APPENDIX 3– MAPS

Details of the build inside flagstaff City limits



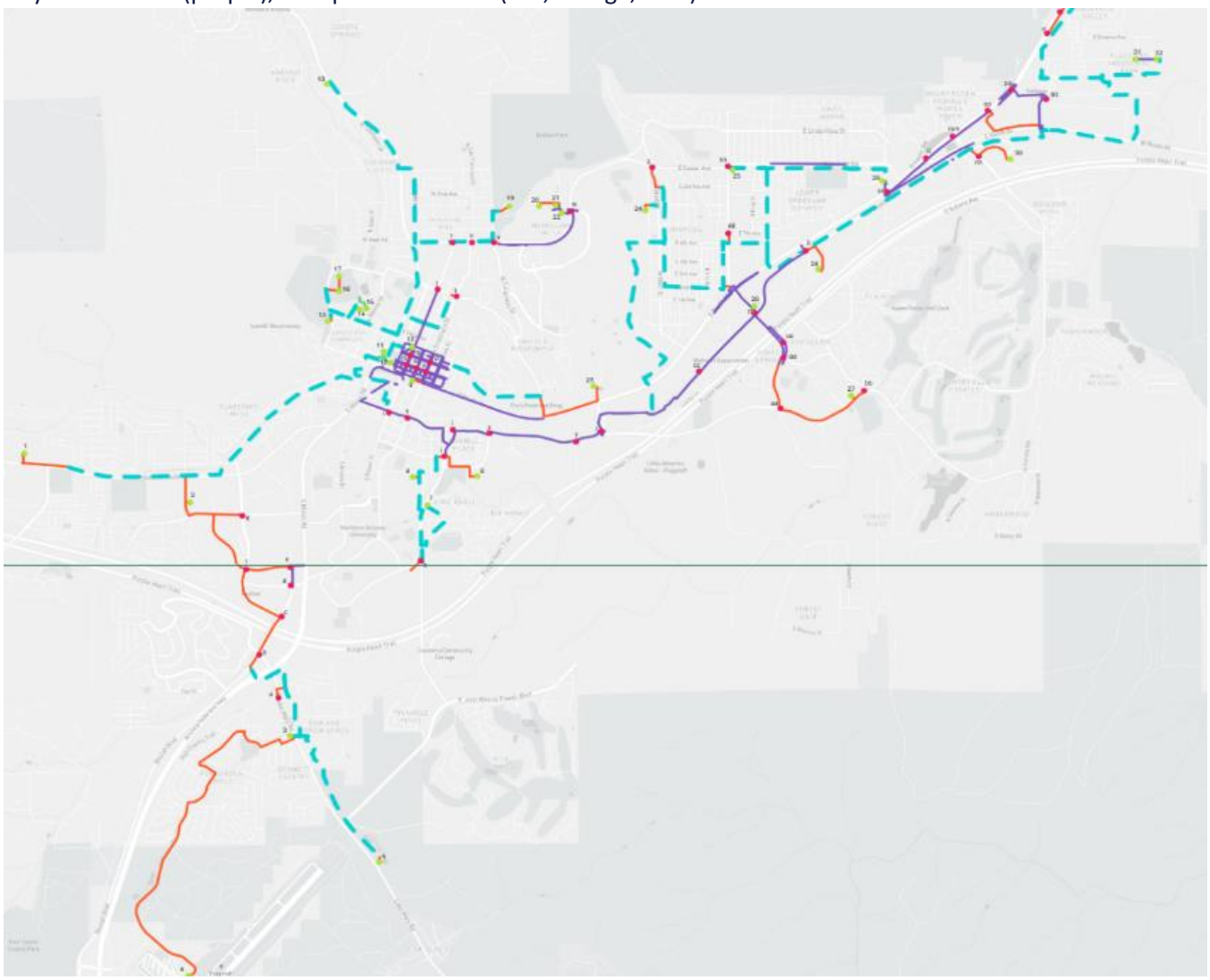
Detail of communities to be built outside Flagstaff City limits.

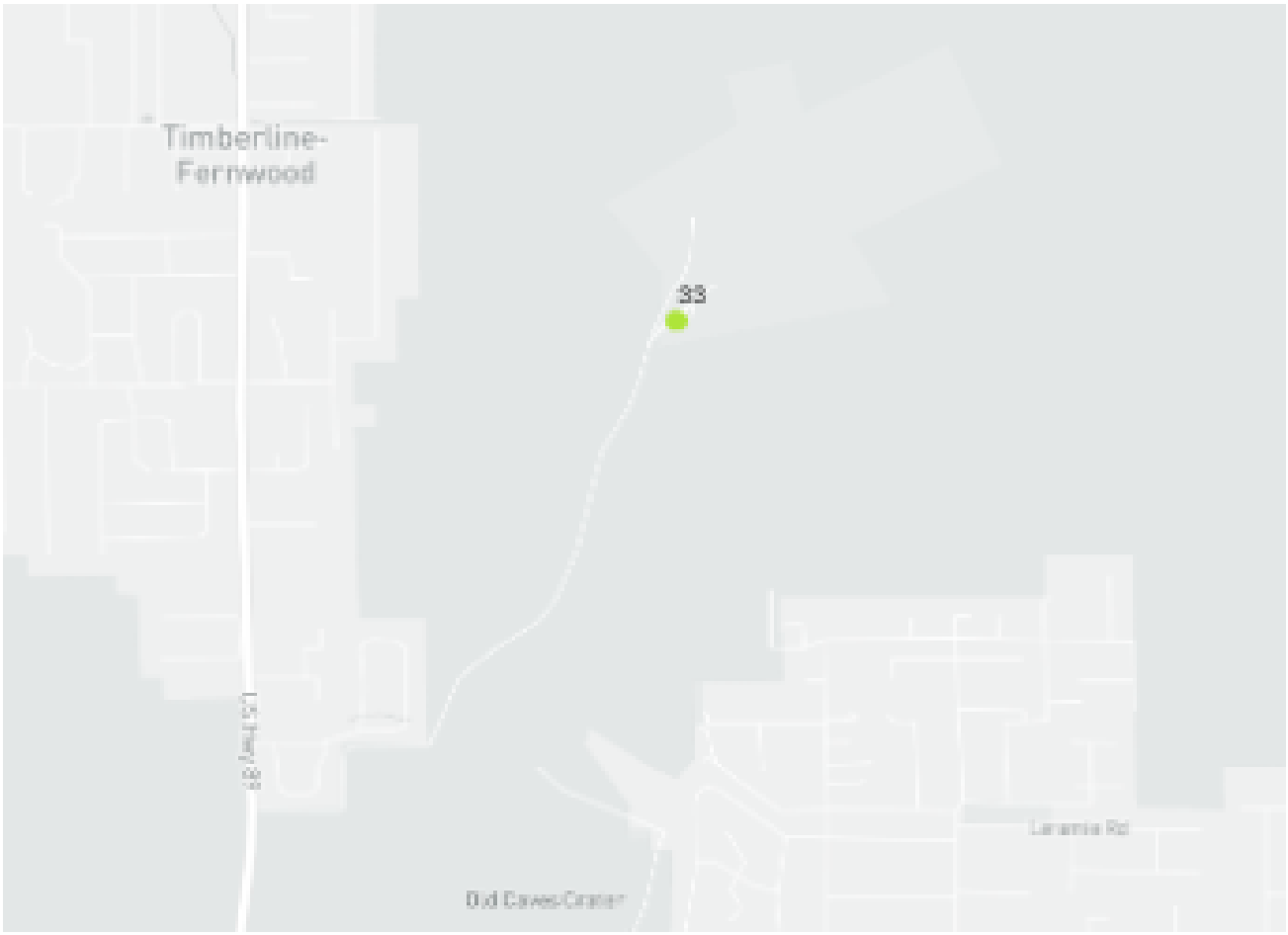


Point of Interest Map – City Innerduct – Fiber Model

New innerduct in the map below is (2) 2" HPDE SDR 13.5 duct, one for Wecom and one for the City. ADOT #9 pull boxes are placed at each corner, underground splice locations, and required pull boxes are placed along the new route.

City owned duct (purple), new planned routes (red, orange, blue).




Timberline-
Fernwood
US Hwy 93
Old Caves Canyon
Laramie Rd

APPENDIX 4– WECOM PRESS RELEASES

- *Arizona-Based Broadband Provider Wecom to Expand High-Speed Fiber Service as Part of Strategic Investment from Searchlight Capital Partners* ***(https://wecomfiber.com)***
- *Searchlight Invests in Wecom* ***(https://www.themiddlemarket.com/)***
- *Arizona-Based Broadband Provider Wecom to Expand High-Speed Fiber Service as Part of Strategic Investment from Searchlight Capital Partners* ***(https://finance.yahoo.com)***
- *Arizona broadband expansion projects are getting a $100 million infusion of cash* ***(https://www.azmirror.com)***
- *Latham & Watkins Advises Searchlight Capital Partners on Strategic Investment in Wecom* ***(https://www.lw.com)***
- *Arizona Commerce Authority Announces $100 Million in Broadband Grants* ***(https://www.azcommerce.com)***
- *Kingman-based company offers plans for bringing broadband to La Paz County* ***(https://www.parkerpioneer.net)***
- *Wecom to Expand Fiber Service* ***(https://channelvisionmag.com/)***
- *USDA Invests $1.6 Million in Broadband for Rural Arizona Communities* ***(https://www.usda.gov/)***
- *Wecom Awarded USDA ReConnect Grant* ***(https://wecominc.com/reconnect/)***

APPENDIX 5–CORP DOCS

ARIZONA DEPARTMENT OF REVENUE
ATTN: Customer Care and Outreach
PO BOX 29032
Phoenix, AZ 85038-9032

ARIZONA DEPARTMENT OF REVENUE

TRANSACTION PRIVILEGE TAX LICENSE

NOT TRANSFERABLE

The licensee listed below is licensed to conduct business upon the condition that taxes are paid to Arizona Department of Revenue as required under provisions of A.R.S. Title 42, Chapter 5, Article 1.

2024

ISSUED TO: WECOM INCORPORATED
2332 KINGMAN AVE
KINGMAN AZ 86401-4840

ALL communications and reports MUST REFER to this LICENSE NO.

LICENSE: 08010307
START DATE: 04/01/1980
ISSUED: 02/08/2024
EXPIRES: 12/31/2024

LOCATION: CODE 001
WECOM INCORPORATED
2332 KINGMAN AVE
KINGMAN, AZ 86401
2400067192393

BUSINESS CODE	REGION	JURISDICTION
005 - COMMUNICATIONS	MOH - MOHAVE	COUNTY
015 - CONTRACTING - PRIME	MOH - MOHAVE	COUNTY
017 - RETAIL	MOH - MOHAVE	COUNTY
015 - CONTRACTING - PRIME	BH - BULLHEAD CITY	CITY
017 - RETAIL	BH - BULLHEAD CITY	CITY
005 - COMMUNICATIONS	KM - KINGMAN	CITY
017 - RETAIL	KM - KINGMAN	CITY
029 - USE TAX	KM - KINGMAN	CITY
017 - RETAIL	LH - LAKE HAVASU CITY	CITY

This License is issued to the business named above for the address shown. Licenses, by law, cannot be transferred from one person to another, nor can they be transferred from one location to another. Arizona law requires licensees to notify the Department of Revenue if there is a change in business name, trade name, location, mailing address, or ownership. In addition, when the business ceases to operate or the business location changes and a new license is issued, this license must be returned to the Arizona Department of Revenue. According to R15-5-2201, license must be displayed in a conspicuous place.

STATE OF ARIZONA

Office of the
CORPORATION COMMISSION

CERTIFICATE OF GOOD STANDING

I, the undersigned Executive Director of the Arizona Corporation Commission, do hereby certify that:

WECOM LLC

ACC file number: 23560444

a foreign limited liability company, was authorized to transact business in the State of Arizona on 07/26/2023, and that, according to the records of the Arizona Corporation Commission, said limited liability company is in good standing in the State of Arizona as of the date this Certificate is issued.

This Certificate relates only to the legal existence of the above named entity as of the date this Certificate is issued, and is not an endorsement, recommendation, or approval of the entity's condition, business activities, affairs, or practices.

IN WITNESS WHEREOF, I have hereunto set my hand, affixed the official seal of the Arizona Corporation Commission, and issued this Certificate on this date: **10/19/2023**

Douglas R. Clark, Executive Director

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

Wecom LLC

LICENSE NUMBER ROC 075287

This information is current as of 2024-03-18 17:47:00

Share this License or Send it to Yourself: Email | Save for Later

If you are the contractor listed, feel free to contact our Licensing Department at (602) 542-1525 for more information.

CONTRACTOR

Business Entity Name	Wecom LLC
City and State	Las Vegas, NV, 89120-2708
Phone	(928) 753-3829
Status / Action	Active

LICENSE

Class & Description	General Dual KE As Restricted by the Registrar RADIO & TELEVISION TRANSMISSION EQUIPMENT
Entity Type	LLC
Issued / Renewal	
First Issued	1988-02-03
Renewed Through	2026-01-31

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

Wecom LLC

LICENSE NUMBER ROC 066605

This information is current as of 2024-03-18 17:46:58

Share this License or Send it to Yourself: Email | Save for Later

If you are the contractor listed, feel free to contact our Licensing Department at (602) 542-1525 for more information.

CONTRACTOR

Business Entity Name	Wecom LLC
City and State	Las Vegas, NV, 89120-2708
Phone	(928) 753-3829
Status / Action	Active

LICENSE

Class & Description	Specialty Dual CR-67 Low Voltage Communication Systems
Entity Type	LLC
Issued / Renewal	
First Issued	1986-12-09
Renewed Through	2024-11-30

APPENDIX 6– EXAMPLE IRUS

INDEFEASIBLE RIGHT TO USE AGREEMENT

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INDEFEASIBLE RIGHT TO USE AGREEMENT

This Indefeasible Right To Use Agreement ("Agreement"), made this ____ day of _____, 2019 ("Effective Date"), between NA Service Company (alternatively referred to as the "Grantor" or "NA"), having an office at _____and _____, a _____ ("Grantee"), having an office at _____. Grantor and Grantee are each referred to herein as a "Party" and collectively as the "Parties."

BACKGROUND

WHEREAS Grantor will operate and maintain the constructed fiber optic facilities along one or more routes (the "Routes" or "Route") as applicable, as described in Article 2.1;

WHEREAS, Grantor is willing to grant to Grantee an indefeasible right of use ("IRU") in certain fiber optical strands along the Routes for use by Grantee in accordance with the terms and conditions of this Agreement; and

[WHEREAS, GRANTEE DESIRES TO ACQUIRE FROM GRANTOR, AND GRANTOR DESIRES TO PROVIDE TO GRANTEE, CERTAIN COLOCATION SERVICES AS DESCRIBED IN COLLOCATION SERVICES ADDENDUM TO THIS AGREEMENT;]

THEREFORE, in consideration of the above recitals and the mutual promises and covenants herein contained, the Parties agree as follows:

ARTICLE 1: DEFINITIONS

Unless otherwise defined herein, the terms used in this Agreement will have their normal or customary meanings. In this Agreement, the following terms will have the meanings set forth below:

Acceptance/Accept:	(i) Written notification issued to Grantor from Grantee stating that the Grantee Fibers in a Route Order are in conformance with this Agreement and accepting the Grantee Fibers or (ii) Deemed Acceptance as described in Article 4.3.
Cable:	A cable containing Grantee Fibers and the associated splicing connections, boxes, vaults, and conduits installed and maintained by Grantor along the applicable fiber route. Based on the specific IRU grants made under this Agreement, the term Cable could apply to any one of several Cables containing Grantee Fibers.

Demarcation Point:	A designated handhole or other suitable interface enclosure specified in the Route Order at which each Party's operational control with respect to the Grantee Fibers change under this Agreement. The endpoints of each route are set out in the Route Order.
Fibers:	Any optical fibers, excluding electronics or other equipment necessary to enable the transmission of information (generally referred to as "dark fibers") included in Grantor's Network, including Grantee's Fibers, and the fibers used by Grantor or by third parties.
Grantee Fibers:	The optical fibers in which Grantor is granting the Grantee an IRU in accordance with the terms and conditions of this Agreement.
Grantor's Network:	The fiber optic network operated and maintained by Grantor, which may be expanded from time to time at Grantor's sole discretion, portions of which include Routes from which the Grantee's Fibers are derived.
Indefeasible Right of Use or "IRU":	An exclusive and indefeasible right to use designated Fibers as further described and upon the terms and conditions specified in this Agreement, Exhibits and Route Order(s).
Potential Service Affecting Condition:	Any deficiency that left unchecked and uncorrected could become a Service Affecting Condition.
Route:	A physical path along which the Cable and Grantee Fibers will extend between End Points.
Service Affecting Condition:	Any failure interfering with a Cable's ability to carry telecommunications traffic on the Grantee Fibers.
Underlying Agreements:	The agreements which Grantor has entered into or authorizations it has obtained to secure the Underlying Rights defined in Section 2.2, below.

ARTICLE 2. RIGHTS IN FIBER AND PAYMENT

2.1 IRU GRANT. GRANTOR CONVEYS TO GRANTEE AN IRU IN SPECIFIED FIBERS IN ONE OR MORE ROUTES SET OUT IN ONE OR MORE ROUTE ORDERS. A SINGLE IRU IS GRANTED FOR ALL SPECIFIED FIBERS ON ALL ROUTES IN A ROUTE ORDER. THE INITIAL ROUTE ORDER IS SET OUT IN EXHIBIT A. FOR EACH ROUTE ORDER, A GOOGLE EARTH MAP DEPICTING ONE OR MORE ROUTES SHALL BE APPENDED TO THE ROUTE ORDER. THE CABLE CONTAINING THE GRANTEE FIBERS SHALL FOLLOW THE PATH AS DEPICTED IN THE MAP. ROUTE MILEAGE FOR CABLES THAT ARE YET TO BE CONSTRUCTED AS OF THE EXECUTION OF THE RELEVANT ROUTE ORDER MAY BE ADJUSTED BASED ON FIELD SURVEYS OR OTDR TESTING. BY WRITTEN AMENDMENT TO A ROUTE ORDER, THE PARTIES MAY INCREASE THE NUMBER OF THE GRANTEE FIBERS, EXTEND A ROUTE, OR ADD OTHER DEMARCATION POINTS, ALL SUBJECT TO THE TERMS HEREOF. THE IRU GRANTS TO GRANTEE THE EXCLUSIVE USE OF THE GRANTEE FIBERS FOR THE TERM OF THE ROUTE ORDER.

2.2 IN NO EVENT SHALL GRANTEE HAVE ANY RIGHTS TO ANY PORTION OF GRANTOR'S LEGAL AND EQUITABLE RIGHTS, IF ANY, IN ANY SUPPORTING STRUCTURES, ELECTRONICS OR OTHER FACILITIES OF GRANTOR'S NETWORK, INCLUDING THE ROUTES, OR UNDER ANY LEASES, EASEMENTS, RIGHT-OF-WAY AGREEMENTS, AND ANY OTHER LAND-USE AGREEMENTS OF ANY KIND OR NATURE TO THE EXTENT THESE RIGHTS ARE APPLICABLE TO GRANTOR'S NETWORK, INCLUDING THE ROUTES OR GRANTEE'S USE OF THE GRANTEE FIBERS OR GRANTOR'S PERFORMANCE UNDER THIS AGREEMENT AND/OR THE REAL PROPERTY ON WHICH THE GRANTEE FIBERS ARE LOCATED OR ANY RIGHTS GRANTOR MAY HAVE UNDER ANY OTHER AGREEMENTS RELATING TO GRANTOR'S NETWORK (COLLECTIVELY, "UNDERLYING RIGHTS"). GRANTEE HEREBY ACKNOWLEDGES AND AGREES THAT IT IS NOT A THIRD-PARTY BENEFICIARY UNDER ANY UNDERLYING AGREEMENT. THE PARTIES AGREE THAT THE IRU GRANTED HEREUNDER DOES NOT PROVIDE GRANTEE WITH FEE OWNERSHIP IN THE GRANTEE FIBERS OR ANY PORTION OF GRANTOR'S NETWORK OR PHYSICAL ACCESS THERETO EXCEPT AT MUTUALLY AGREED UPON DEMARCATION POINTS. IN ADDITION, GRANTOR GRANTS GRANTEE THE NON-EXCLUSIVE RIGHT TO USE THE CABLE AND THE STRUCTURES SUPPORTING THE GRANTEE FIBERS.

2.3 GRANTOR ACKNOWLEDGES AND AGREES THAT, FOR PURPOSES OF 11 U.S.C. § 541(D), THE IRU GRANTED IN A ROUTE ORDER TRANSFERS ALL EQUITABLE RIGHT AND INTEREST IN GRANTEE'S FIBERS TO GRANTEE AND GRANTEE SHALL HAVE EXCLUSIVE USE OF THE GRANTEE FIBERS FOR THE TERM OF EACH ROUTE ORDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE GRANT OF IRU IN THE GRANTEE FIBERS PURSUANT TO THIS AGREEMENT SHALL BE DEEMED FULLY PERFORMED AND NON-EXECUTORY WITHIN THE MEANING OF 11 U.S.C. § 365 UPON THE FULL PAYMENT BY GRANTEE OF THE IRU FEE; THE PARTIES' OTHER OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING MAINTENANCE OR COLLOCATION, AND UNDER ANY OTHER AGREEMENT BETWEEN THE PARTIES FOR SUCH TERM WILL BE SEVERABLE FROM THOSE RELATING TO THE APPLICABLE IRU.

2.4 GRANTEE ACKNOWLEDGES THAT IT HAS NO TITLE TO AND CANNOT IN ANY WAY ENCUMBER THE GRANTEE FIBERS OR GRANTOR'S NETWORK, OR ANY PROPERTY THAT IS THE SUBJECT OF THIS AGREEMENT THAT IS NOT OWNED BY GRANTEE. IF ANY PROPERTY OF GRANTOR OR OF ANY PERSON HAVING AN INTEREST IN AN UNDERLYING AGREEMENT BECOMES ENCUMBERED BY ANY UNAUTHORIZED LIENS, CLAIMS OR OTHER ENCUMBRANCES AS A RESULT OF ANY ACT OR OMISSION OF GRANTEE, GRANTOR SHALL NOTIFY GRANTEE PROMPTLY AND GRANTEE SHALL: (I) WITHIN FIVE (5) BUSINESS DAYS OF BECOMING AWARE CAUSE THE LIEN TO BE DISCHARGED BY POSTING A BOND, PAYING THE UNDERLYING DEBT OR OTHERWISE; AND (II) INDEMNIFY, DEFEND AND HOLD HARMLESS GRANTOR AND ANY THIRD PARTY OWNER UNDER THE UNDERLYING AGREEMENTS FROM SAID ENCUMBRANCE.

2.5 UNDERLYING AGREEMENTS

2.5.1 THE GRANTOR HAS OBTAINED EASEMENTS, RIGHTS OF WAY AND OTHER ACCESS RIGHTS FOR THE CONSTRUCTION AND OPERATION OF THE GRANTOR'S NETWORK. THE IRU IS SUBJECT TO THE TERMS, CONDITIONS, LIMITATIONS, RESTRICTIONS AND RESERVATIONS OF THE UNDERLYING RIGHTS, AND SUBJECT TO THE TERMS, CONDITIONS, LIMITATIONS, RESTRICTIONS AND RESERVATIONS UNDER WHICH THE RIGHTS OF WAY ARE OWNED OR HELD BY THE GRANTORS OF THE UNDERLYING RIGHTS. THE IRU GRANTED HEREUNDER IS FURTHER SUBJECT AND SUBORDINATE TO THE PRIOR RIGHT OF THE GRANTORS OF THE UNDERLYING RIGHTS TO OTHER BUSINESS ACTIVITIES, INCLUDING RAILROAD OPERATIONS, TELECOMMUNICATIONS USES, ELECTRIC TRANSMISSION OR DISTRIBUTION, AND ANY OTHER PURPOSES, AND TO THE PRIOR RIGHT OF GRANTOR TO USE ITS RIGHTS GRANTED UNDER THE UNDERLYING RIGHTS. THE RIGHTS GRANTED HEREIN ARE EXPRESSLY MADE SUBJECT TO EACH AND EVERY LIMITATION, RESTRICTION OR RESERVATION AFFECTING THE UNDERLYING RIGHTS. NOTHING HEREIN SHALL BE CONSTRUED AS TO BE A REPRESENTATION, WARRANTY OR COVENANT OF GRANTOR'S RIGHT, TITLE OR INTEREST WITH RESPECT TO THE RIGHT OF WAYS OR THE UNDERLYING RIGHTS, ALL OF WHICH ARE DISCLAIMED.

2.5.2 In the event that any Underlying Agreement is discontinued, expires, or terminated by law or court order and not replaced and the loss of such Underlying Agreement prohibits the use of the Grantee Fibers or could place any limitations on Grantee's use of the Fiber, Grantor shall provide written notice thereof as soon as possible under the circumstances and shall take action pursuant to Section 6.2, below.

2.6 AS CONSIDERATION FOR GRANTOR'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER, GRANTEE AGREES TO PAY GRANTOR AN IRU FEE AND MAINTENANCE FEES SET OUT IN ROUTE ORDERS ENTERED INTO UNDER THIS AGREEMENT. ADJUSTMENTS IN THE IRU FEE DUE TO REVISED ROUTE MILEAGE CALCULATIONS, AS NOTED IN SECTION 2.1, WILL BE REFLECTED IN THE INVOICE FOR THE IRU FEE PAYMENT DUE UPON ACCEPTANCE. GRANTEE AGREES TO PAY THE IRU FEE TO GRANTOR FOR EACH ROUTE ORDER OR AMENDMENT THERETO AS FOLLOWS:

(A) 50% OF THE IRU FEE SHALL BE PAYABLE THIRTY (30) DAYS AFTER GRANTEE'S RECEIPT OF INVOICE ISSUED PROMPTLY FOLLOWING EXECUTION OF THE ROUTE ORDER FOR THE IRU BY BOTH PARTIES; AND

(B) THE REMAINDER OF THE IRU FEE SHALL BE DUE WITHIN THIRTY (30) DAYS FOLLOWING GRANTEE'S RECEIPT OF GRANTOR'S INVOICE WHICH SHALL BE SENT PROMPTLY FOLLOWING THE ACCEPTANCE DATE (DEFINED IN SECTION 4.3).

PAYMENTS MADE TO GRANTEE SHALL BE MADE BY WIRE TRANSFER OR COMPANY CHECK TO "NA SERVICES COMPANY" AND, IF PAYMENT IS MADE BY CHECK, SHALL BE DELIVERED TO GRANTEE AT THE FOLLOWING ADDRESS:

NA Service Company
2122 W. Cheryl Drive

MS# 3864

Phoenix, AZ 85012

Attention: Dominic Pagliuca

Telephone: (602) 371-7063

Facsimile: (602) 371-6321

The above address is subject to change from time to time upon written notice to Grantee.

2.7 BEGINNING ON THE ACCEPTANCE DATE AND EACH ANNIVERSARY DATE THEREAFTER, GRANTEE AGREES TO PAY GRANTOR AN ANNUAL MAINTENANCE FEE PER ROUTE (THE "ANNUAL MAINTENANCE FEES") AS SPECIFIED IN A ROUTE ORDER. MAINTENANCE FEE PAYMENTS SHALL BE MADE WITHIN THIRTY (30) DAYS AFTER THE RECEIPT DATE OF INVOICES THAT ARE ISSUED BY GRANTOR ON OR AFTER THE ACCEPTANCE DATE. THE PRICE OF THE MAINTENANCE IS SET OUT IN THE ROUTE ORDER FOR THE FIRST YEAR AND PAYABLE ANNUALLY THEREAFTER IN ADVANCE, WITH ADJUSTMENTS PERMITTED EVERY THIRD ANNIVERSARY TO REFLECT ANNUAL CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS ("CPI-U") ; U.S. CITY AVERAGE, ALL ITEMS, 1982-1984 = 100. PAYMENTS SHALL BE MADE AS PROVIDED IN THIS SECTION 2.7. THE ANNUAL MAINTENANCE FEE SHALL BE ASSESSED FOR EACH YEAR OF ANY RENEWAL TERM AS PROVIDED ABOVE. THE PRIOR YEAR'S MAINTENANCE FEE SHALL BE USED FOR EACH YEAR OF ANY RENEWAL TERM. FOR ANY TRANSITION TERM FOR A ROUTE ORDER, THE MAINTENANCE FEE SHALL BE CALCULATED AS FOLLOWS: PRIOR YEAR'S MAINTENANCE FEE ÷ 12 = TRANSITION TERM'S MONTHLY MAINTENANCE FEE).

2.8 A ONE-TIME FEE MAY BE ISSUED TO COVER GRANTOR'S COSTS OF SPLICING AND MAY BE SPECIFIED IN A ROUTE ORDER OR BILLED SEPARATELY.

2.9 ALL AMOUNTS OTHER THAN THE IRU FEE, ANNUAL MAINTENANCE FEES, OR SPLICE FEES INCLUDED IN A ROUTE ORDER, SHALL BE INVOICED BY GRANTOR ON AN ANNUAL BASIS AND PAID BY GRANTEE WITHIN THIRTY (30) CALENDAR DAYS OF THE INVOICE RECEIPT. GRANTOR SHALL INVOICE GRANTEE FOR ALL AMOUNTS DUE UNDER THIS AGREEMENT WITHIN ONE HUNDRED EIGHTY DAYS OF THE END OF THE PERIOD IN WHICH SUCH CHARGES WERE INCURRED OR TO WHICH SUCH CHARGES ARE ATTRIBUTABLE. GRANTEE SHALL HAVE NO OBLIGATION TO MAKE PAYMENT FOR SUCH CHARGES BILLED MORE THAN ONE HUNDRED EIGHTY (180) DAYS AFTER THE LAST DAY OF THE MONTH IN WHICH THE RELEVANT CHARGES WERE INCURRED.

2.10 IN THE EVENT THAT GRANTEE, IN GOOD FAITH, DISPUTES ANY AMOUNT CHARGED BY GRANTOR, GRANTEE MAY WITHHOLD THE DISPUTED AMOUNT, PROVIDED GRANTEE SHALL PAY THE UNDISPUTED AMOUNT OF THE RELEVANT INVOICE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. WHEN DISPUTING ANY AMOUNT CHARGED, GRANTEE SHALL PROVIDE A WRITTEN EXPLANATION OF THE BASIS FOR ITS DISPUTE. GRANTEE AND GRANTOR SHALL MEET OR COMMUNICATE BY TELEPHONE OR OTHER MEANS TO RESOLVE SUCH DISPUTE. IF THE DISPUTE IS NOT RESOLVED WITHIN SIXTY (60) DAYS OF THE DATE OF GRANTEE'S WRITTEN EXPLANATION, EITHER PARTY MAY EXERCISE ITS RIGHTS UNDER ARTICLE 13.

ARTICLE 3: FIBER CONNECTIONS; DEMARCATION POINTS

3.1 GRANTOR SHALL CONNECT THE GRANTEE FIBERS AT THE DEMARCATION POINTS SPECIFIED IN THE APPLICABLE ROUTE ORDER WITHIN MUTUALLY AGREED UPON GRANTOR SPLICE ENCLOSURES. GRANTEE, AT GRANTEE'S EXPENSE, WILL BE RESPONSIBLE FOR SECURING EASEMENTS AND PERMITS AND PROVIDING CABLE CONSTRUCTION FROM THE DEMARCATION POINTS TO ITS OTHER FIBER OPTIC FACILITIES OR TO THOSE OF ITS CUSTOMERS OR ITS SERVICE PROVIDERS. GRANTEE'S ACCESS TO THE GRANTEE FIBERS WILL BE AT DESIGNATED DEMARCATION POINTS IDENTIFIED IN A ROUTE ORDER. IN ACCORDANCE WITH ARTICLE 2.1 OF THE AGREEMENT, GRANTEE MAY REQUEST OTHER DEMARCATION POINTS.

3.2 Grantee shall have the right to establish a connection to the Grantee Fibers on its side of the Demarcation Point established within the distribution panel(s) or other fiber connection scheme that totally isolates such Grantee Fibers from the other Fibers in the Cable. Such interface or Demarcation Points will be clearly marked on the As-Built Drawings.

3.3 Grantor may require Grantee to pay the costs of maintaining any splice point established at the request of Grantee that presents unusual problems of access for Grantor. The costs shall be set forth in a Route Order executed by the Parties. Upon Grantor's request, Grantee shall provide a trained and qualified technician at the appropriate Fiber Distribution Panel with an Optical Time Domain Reflectometer to assist Grantor in performing inspection, maintenance, or repair in situations where Grantor does not have sufficient physical access to a premise housing a demarcation point requested by Grantee to verify splicing specifications for the Grantee Fibers.

3.4 Grantor and Grantee each shall work together in good faith to prevent damage to each other's equipment, to fibers not subject to this Agreement and to each other's ability to provide services over the Network. Grantee shall not use or permit any third party to use equipment, technologies, or methods of operation that interfere in any way with or adversely affect the Network, or Grantor's or other persons' use of the Network to transmit their own signals. Grantor shall not use or permit any third party to use equipment, technologies or methods of operation that interfere in any way with or adversely affect Grantee's use of the Network or Grantee Fibers to transmit signals.

3.5 Grantee shall be responsible for obtaining all governmental and other approvals and consents necessary for Grantee to interconnect with the 3rd party Fibers at Demarcation Points.

ARTICLE 4: TESTING AND ACCEPTANCE

4.1 Following payment of the first installment of the IRU Fee or as otherwise provided in a Route Order, Grantor shall complete installation of the Cable and perform fiber acceptance testing of the Grantee Fibers along the Route in a Route Order for verification that Grantee Fibers comply with the Fiber Specifications set out in Exhibit B ("Acceptance Testing") hereinafter "Acceptance Criteria." Grantor will provide at least three (3) business days-notice of acceptance testing so that Grantee has the opportunity to be present during testing. Such notice may be by email, not subject to Section 17, Notice.

4.2 When the Grantee Fibers in a Route Order meet the Acceptance Criteria, Grantor will provide the test deliverables as described in Exhibit B to Grantee. Grantee shall have ten business days (10) days to review the test results and to provide Grantor notice of acceptance ("Acceptance"), or if Grantee reasonably determines the Grantee Fibers of a Route do not satisfy the Acceptance Criteria, it shall provide notice of rejection ("Rejection") to Grantor, specifying that portions of the test results not in accordance with Fiber Specifications in Section 3 of Exhibit B. Notice of Acceptance or Rejection may be by email, not subject to Section 17, Notice.

4.3 If Grantee fails to provide Grantor with Notice of Acceptance or Rejection within fifteen (15) days, then Grantee will be deemed to have provided its Acceptance of Grantee's Fibers ("Deemed Acceptance"). The date of Grantee's Notice of Acceptance or the date of Deemed Acceptance, shall be the "Acceptance Date." The "Acceptance Date" for Grantee Fibers shall not occur unless and until the Grantee Fibers meet the Fiber Specifications on all segments of a Route included in a Route Order.

4.4 In the event of rejection, Grantor shall retest the Grantee Fibers or subsets thereof that did not meet the Acceptance Criteria as provided in Sections 4.1 and 4.2 and take appropriate corrective action or Grantor shall take other action to reasonably demonstrate the Acceptance Criteria have been satisfied. In the event Grantee provides a second notice of rejection, Grantee may conditionally accept the Grantee Fibers subject to the condition that all deficiencies

impeding conformance are corrected by Grantor and, unless and until corrected, Grantee may terminate the affected Route Order without opportunity to cure.

4.5 For Route Orders having multiple Routes, the Route Order shall specify whether each Route will be tested and accepted on an individual basis, allowing for partial termination of a single Route or multiple Routes that do not meet the Acceptance Criteria or whether all Routes in a Route Order will be terminated if one or more Routes do not meet the Acceptance Criteria.

4.6 Grantor shall make commercially reasonable efforts to cause Acceptance or the Grantee Fibers to occur by the "Delivery Date" set forth in the Route Order. Grantor shall give notice to Grantee as early as reasonably possible of any known or expected delays in completion of the delivery of Fiber or colocation services on any Network Route.

4.7 In the event that the Acceptance under Exhibit B does not occur for 180 days after the Effective Date of the Route Order (excluding any period of delay attributable to a Force Majeure Event or Grantee's acts or of omissions or for a period to permit retesting as provided under Section 4.4, above), and provided that the Grantee has not conditionally accepted the Grantee Fibers under Section 4.4, above, then Grantee will have the right, at its sole option, to terminate the affected Route Order and any related services, such as colocation services, along the Route or permit further tests of the Grantee Fibers. In the event of such termination by Grantee, Grantor shall refund to Grantee all IRU Fees or portions thereof previously paid by Grantee under the Route Order (and any other amounts paid in advance under the Route Order), extinguishing Grantor's obligations under the Route Order. Grantee's termination of an IRU on a Route(s) under this Section 4.7 shall terminate Grantee's obligation to pay the IRU Fee or any other charges relating to such Route(s) (including charges for any collocation, maintenance, or relocations). This provision does not apply to interconnections with fibers of third-party providers.

ARTICLE 5: FIBER NETWORK MAINTENANCE

5.1. GRANTOR IS, AT GRANTOR'S SOLE COST AND EXPENSE, RESPONSIBLE FOR THE DESIGN, ENGINEERING, INSTALLATION AND CONSTRUCTION OF THE NETWORK IN COMPLIANCE WITH ALL APPLICABLE BUILDING, CONSTRUCTION AND SAFETY CODES FOR SUCH CONSTRUCTION AND INSTALLATION, AS WELL AS ANY AND ALL OTHER GOVERNMENTAL LAWS, CODES, ORDINANCES, STATUTES AND REGULATIONS.

5.2 FROM AND AFTER THE ACCEPTANCE DATE, GRANTOR SHALL PERFORM ALL ROUTINE MAINTENANCE, EMERGENCY RESTORATION, AND LOCATE SERVICES FOR THE NETWORK, THE NETWORK SIDE ACCESS FACILITIES, AND THE FIBERS IN EACH ROUTE ORDER. GRANTOR SHALL MAINTAIN THE GRANTEE FIBERS AND THE NETWORK SIDE OF DEMARCATION POINTS IN GOOD OPERATING CONDITION IN ACCORDANCE WITH INDUSTRY STANDARDS AND PRACTICES AND SHALL HAVE SOLE RESPONSIBILITY FOR THE COMPLETION OF EMERGENCY REPAIRS TO ITS NETWORK AND THE GRANTEE FIBERS. SUCH OBLIGATION TO MAINTAIN SHALL INCLUDE ALL ROUTINE AND ORDINARY MAINTENANCE AND REPAIRS TO THE DEMARCATION POINTS WITHIN THE DESIGNATED HANDHOLES OR OTHER FACILITIES AS WELL AS EMERGENCY REPAIRS TO CORRECT ANY FAILURE, INTERRUPTION, OR IMPAIRMENT IN THE OPERATION OF THE GRANTEE FIBERS.

5.2.1 SCHEDULED MAINTENANCE. GRANTOR WILL PERFORM ROUTINE MAINTENANCE AND REPAIR OF THE NETWORK AND STRUCTURES AS DESCRIBED HEREIN ("SCHEDULED MAINTENANCE") WHICH WILL INCLUDE THE FOLLOWING ACTIVITIES:

5.2.2 Grantor will notify Grantee's NCC at least ten business days prior to any scheduled routine maintenance on a Cable or Fibers. Any planned service outage will have a beginning and ending time and a scope of activities to occur during such planned service outage. Any scheduled routine maintenance that may result in a temporary degradation of service quality or outage shall generally be undertaken between the hours of 12:00 a.m. and 6:00a.m. local time, unless another time frame is mutually coordinated and agreed to by both Parties.

5.3 IF A SERVICE AFFECTING CONDITION OR POTENTIAL SERVICE AFFECTING CONDITION AFFECTS THE

CABLE HOUSING GRANTEE'S FIBERS IS IDENTIFIED BY EITHER PARTY, GRANTOR WILL REPAIR THE CABLE IN

ACCORDANCE WITH THE TIME FRAMES SPECIFIED IN SECTION 5.6 OF THIS AGREEMENT.

5.4 RESTORATION OF A CABLE AND ANY EMERGENCY SPLICING OF THE AFFECTED FIBERS WILL BE

COMPLETED IN A SYSTEMATIC AND ROTATIONAL MANNER WITH PRIORITY GIVEN TO THE "IN OPERATION" FIBERS

WITHIN SUCH CABLE.

5.5 THE GRANTOR EMERGENCY CONTACT NUMBERS ARE PROVIDED IN EXHIBIT C. GRANTOR SHALL MAINTAIN THE ABILITY TO DISPATCH REPAIR PERSONNEL ON A 24/7/365 BASIS. GRANTOR MAINTENANCE AND REPAIR EMPLOYEES SHALL BE AVAILABLE FOR DISPATCH TWENTY-FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK. GRANTOR SHALL PROVIDE OR MAKE INFORMATION ON THE PROGRESS OF ANY REPAIR OR RESTORATION EFFORTS TO GRANTEE AT NO MORE THAN FOUR-HOUR INTERVALS UNLESS PROVIDING THE INFORMATION WOULD DELAY THE REPAIR PROCESS. GRANTOR WILL PROVIDE GRANTEE WITH FIBER IDENTIFICATION REFERENCE NUMBERS ON EACH SPAN OF THE ROUTE FOR PURPOSES OF FAULT REPORTING AND MANAGEMENT. REPORTING, RESPONSE AND RESOLUTION OF MAINTENANCE ISSUES WILL BE MANAGED BY EACH PARTY'S DESIGNATED PERSONNEL. ADDRESSES AND TELEPHONE NUMBERS FOR THE GRANTEE'S EMERGENCY CONTACT PERSONNEL AND GRANTOR'S EMERGENCY CONTACT PERSONNEL ARE LISTED IN THE ATTACHED EXHIBIT C. GRANTEE SHALL CONTACT GRANTOR'S EMERGENCY CONTACT PERSONNEL TO REPORT ANY CONDITIONS AFFECTING THE USE OR OPERATION OF THE GRANTEE FIBERS.

5.6 GRANTOR'S MAINTENANCE SHALL MEET THE STANDARDS IN THIS AGREEMENT AND GENERALLY ACCEPTED INDUSTRY STANDARDS. ALL REQUIRED MAINTENANCE, REPAIR OR RESTORATION ON A CABLE SHALL BE PERFORMED BY GRANTOR, EXCEPT SUCH MAINTENANCE COSTS RESULTING DIRECTLY FROM THE NEGLIGENT OR WRONGFUL ACTS OF GRANTEE, INCLUDING ITS EMPLOYEES, AGENTS AND CONTRACTORS, IN WHICH CASE GRANTEE SHALL PAY THE TOTAL COSTS OF MAINTENANCE, REPAIR OR RESTORATION CAUSED BY ITS NEGLIGENT OR WRONGFUL ACTS.

5.6.1 Any deficiencies impacting the Grantee Fibers identified by the Parties shall be addressed in the following manner:

(a) Service Affecting Condition –

i. Grantor will endeavor to respond to any failure, interruption or impairment of a Route by having its first repair personnel on–site within five (5) hours after Grantor becomes aware of said failure, interruption or impairment. Grantor will endeavor to restore the functionality of a Route within twelve (12) hours of responding to the failure, interruption or impairment. Grantee acknowledges that any repairs made by Grantor within twelve (12) hours of responding to a failure, interruption or impairment may be temporary in nature. Within forty-eight (48) hours after any temporary repair is completed, Grantor will endeavor to begin planning a permanent repair. Thereafter, Grantor will promptly notify Grantee of its plans for a permanent repair, and Grantor shall use commercially reasonable efforts to implement the permanent repair as soon as practical. Excluding force majeure events, if the functionality of a Route is unavailable due to a failure, interruption or impairment in the Fiber for more than twelve hours in a month, then Grantor will provide a credit to Grantee in the amount of one percent (1%) of the Annual Maintenance Fee for the affected Route for each hour or partial hour of unavailability in excess of the first twelve hours.

ii. In the event one or more Grantee Fibers in a Route are cut, lit fibers in all buffer tubes shall have priority over any dark fibers. Grantor will continue such restoration efforts until all lit fibers in all buffer tubs are spliced and tested. In general, priority among Grantor, Grantee and any other entity using the Network and affected by a cut shall be determined on a rotating restoration-by-restoration basis, to provide fair and equitable restoration priority to all parties using the Network. Grantor will use all reasonable efforts to implement a Network rotation mechanism so that the initial rotation order of the parties using the Network is varied (from earlier to later in the order), such that as restorations occur, each party using the Network has approximately equivalent rotation order positions.

(b) Potential Service Affecting Condition –

CORRECTION BY GRANTOR WILL COMMENCE AS SOON AS REASONABLY POSSIBLE UPON GRANTOR BECOMING AWARE OF SUCH CONDITION. CORRECTIONS WILL BE COMPLETED AS SOON AS POSSIBLE, BUT IN ANY CASE WITHIN FIVE (5) DAYS. IF THE CORRECTIONS ARE NOT COMPLETED WITHIN FIVE (5) DAYS, GRANTOR MUST SHOW THAT IT IS USING COMMERCIALLY REASONABLE EFFORTS TO COMPLETE THE CORRECTIONS AS SOON AS POSSIBLE.

(C) OTHER –

ANY DEFICIENCY NOT FALLING WITHIN THE PARAMETERS OF ARTICLE 5.5 (A) AND (B) WILL BE CORRECTED BY GRANTOR WITHIN THIRTY (30) DAYS OF BECOMING AWARE OF SUCH DEFICIENCY. IF THE CORRECTIONS ARE NOT COMPLETED WITHIN THIRTY (30) DAYS, GRANTOR MUST SHOW THAT IT IS USING COMMERCIALLY REASONABLE EFFORTS TO COMPLETE THE CORRECTIONS AS SOON AS POSSIBLE.

Each of the time periods specified above begins when Grantor becomes aware of a deficiency in accordance with this Agreement and ends when the deficiency has been corrected.

5.7 ANY WORK PERFORMED BY EITHER PARTY ON THE PREMISES OF THE OTHER PARTY WILL BE PERFORMED WHILE TAKING ALL NECESSARY PRECAUTIONS TO PREVENT THE OCCURRENCE OF ANY INJURY TO PERSONS OR PROPERTY DURING THE PROGRESS OF SUCH WORK, WILL ADHERE TO THE SECURITY PROCEDURES AND POLICIES OF THE OTHER PARTY, AND WILL NOT INTERFERE WITH THE OPERATIONS OF THE OTHER PARTY.

ARTICLE 6: ROUTE RELOCATIONS

6.1 IF GRANTOR INTENDS TO RELOCATE A ROUTE OR DEMARCATION POINT AT ITS DISCRETION, GRANTOR WILL GIVE GRANTEE AT LEAST SIX (6) MONTHS PRIOR NOTICE OF THE PROPOSED RELOCATION, OR, IF GRANTOR IS UNABLE TO GIVE THE GRANTOR SIX (6) MONTHS PRIOR NOTICE, GRANTOR WILL NOTIFY GRANTEE OF THE RELOCATION PROMPTLY AFTER GRANTOR FIRST HAS KNOWLEDGE OF THE NEED TO RELOCATE ITS CABLE. EXCEPT AS SET FORTH BELOW, GRANTOR WILL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE RELOCATION, INCLUDING THE GRANTEE'S COST TO MAINTAIN OR REESTABLISH CONNECTIONS TO THE GRANTEE FIBERS.

6.2 In the event a Route is required to be relocated as required by law or at the direction of any regulatory agency or other governmental authority or condemnor having apparent authority, excluding Temporary Government Relocations described in Section 6.2.1., or due to change in physical conditions, such as earthquakes, rockslides, ground subsidence or other force majeure event or fiber cuts or damage to the Cable or Grantee Fibers caused by third parties, Grantor shall use reasonable efforts to reroute the path of the Route applicable thereto, including Grantee Fibers and Grantee Demarcation Points ("Relocation"). Grantee shall pay within thirty (30) days of receipt of an invoice for such Relocation its Pro Rata Share of the costs of such rerouting based on percentage of the number Grantee Fibers in the Route subject to this IRU to the total number fiber strands in the Route.

6.2.1 Temporary Government Relocations. Certain Underlying Rights Grantor has secured may be subject to infrastructure projects planned or adopted by local, state or Federal governments. These infrastructure projects may require the temporary relocation of portions of a Route and movement of the Cable to and from one or more temporary locations from or to a Route, each of which may entail limited interruptions in continuity and availability of Grantee's Fibers. ("Temporary Government Relocations"). As Grantor receives notice from the government entity, including the planned start and completion date and duration of such relocation, Grantor shall promptly notify Grantee of the planned Temporary Government Relocation. Grantor and Grantee shall cooperate in planning and implementing the temporary relocation of the Network and Grantee's Fibers and each shall bear their respective proportional costs, on a pass-through basis without markup. Grantor will undertake all commercially reasonable efforts to minimize any interruption to Grantee's business or expenses or both.

6.3 If in Grantor's reasonable judgement relocation of a Route under Section 6.2, but excluding a Temporary Government Relocation, is not feasible or not economic or that it is not feasible or not economic to rebuild the affected portion thereof, to restore the Grantee Fibers consistent with generally accepted industry standards, Grantor shall notify Grantee in a timely manner. Grantee shall then have 30 days to notify Grantor that it elects to terminate the affected

Route or the entire Agreement. Failure to provide timely notice to Grantor shall limit Grantee's right to terminate only the affected Route.

6.4 Upon such termination, Grantee shall receive from Grantor (a) a Pro-Rata Refund of the IRU Fees; and (b) a reimbursement of the advanced annual payment for maintenance based on the number of days remaining in the pre-paid year from the date of termination divided by 365. Grantor's payment of the reimbursement amount calculated herein shall extinguish all of Grantor's obligations without any further liability under this Agreement with respect to the terminated Route or Routes.

6.5 AFTER ANY RELOCATION, THE GRANTOR WILL PROVIDE GRANTEE UPDATED ROUTE MNA WITHIN NINETY (90) DAYS OF COMPLETION OF THE RELOCATION.

ARTICLE 7: TERM

7.1 THIS AGREEMENT WILL COMMENCE AS OF THE EFFECTIVE DATE OF THIS AGREEMENT AND SHALL CONTINUE FOR A PERIOD OF TEN (10) YEARS AFTER THE EFFECTIVE DATE. RENEWAL OF THIS AGREEMENT SHALL BE SUBJECT TO NEGOTIATIONS BY THE PARTIES.

7.2 THE TERM OF EACH ROUTE ORDER WILL COMMENCE ON ITS ACCEPTANCE DATE AND WILL EXTEND FOR AN INITIAL TERM OR ANY RENEWAL TERM AS PROVIDED IN EACH ROUTE ORDER. THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL APPLY TO ANY ROUTE ORDER THAT REMAINS IN EFFECT AFTER THE EXPIRATION OF THIS AGREEMENT.

7.3 IF NEITHER PARTY PROVIDES NOTICE TO THE OTHER TO TERMINATE A ROUTE ORDER AT LEAST NINETY (90) DAYS BEFORE THE EXPIRATION OF ITS INITIAL TERM OR ANY RENEWAL TERM, THE ROUTE ORDER WILL CONTINUE ON A MONTH-TO-MONTH BASIS UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THE ROUTE ORDER (THE “TRANSITION TERM”). THE TRANSITION TERM FEE SHALL BE THE EQUIVALENT OF ONE MONTH OF THE IRU FEE OR RENEWAL TERM, AS APPLICABLE (IRU FEE OR IRU RENEWAL FEE ÷ NUMBER OF MONTHS THEREOF = TRANSITION TERM FEE) AND SHALL BE PAYABLE ON THE 1ST DAY OF EACH MONTH WITHOUT INVOICE. DURING THE TRANSITION TERM, EITHER PARTY MAY TERMINATE THE ROUTE ORDER BY PROVIDING NINETY (90) DAYS-NOTICE TO THE OTHER PARTY.

ARTICLE 8. WARRANTIES

8.1 EACH PARTY REPRESENTS AND WARRANTS: (I) IT IS, IN THE CASE OF GRANTEE, A COMPANY DULY ORGANIZED, VALIDLY EXISTING, AND IN GOOD STANDING UNDER THE LAWS OF THE STATE OF_____, AND IN THE CASE OF GRANTOR, IT IS DULY ORGANIZED AND VALIDLY EXISTING UNDER THE LAWS OF THE STATE OF NA; (II) IT HAS TAKEN ALL REQUISITE CORPORATE ACTION TO APPROVE THE EXECUTION, DELIVERY, AND PERFORMANCE OF THIS AGREEMENT; (III) THIS AGREEMENT CONSTITUTES A LEGAL, VALID, AND BINDING OBLIGATION ENFORCEABLE AGAINST SUCH PARTY IN ACCORDANCE WITH ITS TERMS, SUBJECT TO BANKRUPTCY, INSOLVENCY, CREDITORS' RIGHTS, AND GENERAL EQUITABLE PRINCIPLES; AND (IV) ITS EXECUTION OF AND PERFORMANCE UNDER THIS AGREEMENT SHALL NOT VIOLATE ANY APPLICABLE EXISTING REGULATIONS, RULES, STATUTES, OR COURT ORDERS OF ANY LOCAL, STATE, OR FEDERAL GOVERNMENT AGENCY, COURT, OR BODY.

8.2 THE WARRANTIES AND REMEDIES SET FORTH IN THIS AGREEMENT CONSTITUTE THE ONLY WARRANTIES AND REMEDIES WITH RESPECT TO THIS AGREEMENT. SUCH WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE.

8.3 EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, GRANTOR MAKES NO WARRANTY TO GRANTEE OR ANY OTHER ENTITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE ROUTE, THE GRANTEE FIBERS, OR THE NETWORK, OR ANY DELIVERABLE OR CONSTRUCTION PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED. WITHOUT LIMITING THE FOREGOING, GRANTOR DOES NOT WARRANT THAT THE ROUTE WILL BE UNINTERRUPTED OR ERROR-FREE.

ARTICLE 9: LIMITATION OF LIABILITY

9.1 NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, OR FOR LOST REVENUES, OR FOR LOST OPPORTUNITIES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY TRANSMISSION INTERRUPTIONS OR PROBLEMS OR ANY INTERRUPTION OR DEGRADATION OF SERVICE, WHETHER OCCASIONED BY ANY CONSTRUCTION, NON-CONSTRUCTION, RELOCATION, REPAIR, OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY THE OTHER PARTY.

9.2 EXCEPT FOR (I) BODILY INJURY OR DEATH TO ANY PERSON OR PHYSICAL DAMAGE TO THE GRANTEE FIBERS OR THE GRANTOR NETWORK OR TO OTHER GRANTOR OR GRANTEE PROPERTY NEGLIGENTLY CAUSED BY A PARTY, (II) DAMAGES ARISING FROM WILLFUL MISCONDUCT, OR (III) A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 14 FOR EACH OF WHICH THE OTHER PARTY SHALL HAVE THE RIGHT TO PROVEN DIRECT DAMAGES AND EXCLUDING FOR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 11, NEITHER PARTY SHALL HAVE LIABILITY FOR MONETARY DAMAGES TO THE OTHER FOR A DEFAULT EXCEPT AS PROVIDED IN SECTION 12.3, BELOW.

ARTICLE 10: INSURANCE

THROUGHOUT THE PERIOD DURING WHICH THIS AGREEMENT REMAINS IN EFFECT, GRANTEE SHALL TAKE OUT AND MAINTAIN THE FOLLOWING MINIMUM INSURANCE:

10.1 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE, AS REQUIRED BY LAW, COVERING ALL ITS EMPLOYEES WHO PERFORM ANY OF THE OBLIGATIONS UNDER THIS IRU. IF ANY EMPLOYEE IS NOT SUBJECT TO THE WORKERS' COMPENSATION LAWS OF NA, THEN INSURANCE SHALL BE OBTAINED VOLUNTARILY TO EXTEND TO THE EMPLOYER AND EMPLOYEE COVERAGE TO THE SAME EXTENT AS THOUGH THE EMPLOYER OR EMPLOYEE WERE SUBJECT TO NA'S WORKERS' COMPENSATION LAWS.

10.2 PUBLIC LIABILITY AND PROPERTY LIABILITY INSURANCE COVERING ALL OPERATIONS UNDER THIS AGREEMENT WITH LIMITS FOR BODILY INJURY OR DEATH OF NOT LESS THAN $1 MILLION FOR EACH OCCURRENCE, LIMITS FOR PROPERTY DAMAGE OF NOT LESS THAN $1 MILLION FOR EACH OCCURRENCE, AND $2 MILLION AGGREGATE FOR ACCIDENTS DURING THE POLICY PERIOD. A SINGLE LIMIT OF $2 MILLION OF BODILY INJURY AND PROPERTY DAMAGE IS ACCEPTABLE. THIS REQUIRED INSURANCE MAY BE IN A POLICY OR POLICIES OF INSURANCE, PRIMARY AND EXCESS INCLUDING THE UMBRELLA OR CATASTROPHE FORM.

10.3 AUTOMOBILE LIABILITY INSURANCE ON ALL SELF-PROPELLED VEHICLES USED IN CONNECTION WITH THIS AGREEMENT, WHETHER OWNED, NON-OWNED OR HIRED, SHALL HAVE LIMITS FOR BODILY INJURY OR DEATH OF NOT LESS THAN $1 MILLION PER PERSON AND $2 MILLION FOR EACH OCCURRENCE, AND PROPERTY DAMAGE LIMITS OF $1 MILLION FOR EACH OCCURRENCE. A SINGLE LIMIT OF $2 MILLION OF BODILY INJURY AND PROPERTY DAMAGE IS ACCEPTABLE. THIS REQUIRED INSURANCE MAY BE IN A POLICY OR POLICIES OF INSURANCE, PRIMARY AND EXCESS INCLUDING THE UMBRELLA OR CATASTROPHE FORM.

10.4 PROPERTY INSURANCE COVERING THE GRANTEE FIBERS, PERSONAL PROPERTY AND EQUIPMENT TO BE USED IN CONNECTION WITH THE ROUTE OR AT THE DEMARCATION POINTS, AND, TO THE EXTENT THE PARTIES AGREE TO A COLLOCATION SERVICES ADDENDUM, ALL LICENSEE EQUIPMENT, AS WELL AS ALL PERSONAL PROPERTY AND EQUIPMENT USED IN CONNECTION WITH THE LICENSEE'S EQUIPMENT IN THE COLLOCATION FACILITY AND THE COLLOCATION SPACE.

10.5 THE INSURANCE POLICIES SHALL BE IN SUCH FORM AND ISSUED BY AN INSURER THAT IS FINANCIALLY SOLVENT WITH AN AM BEST RATING OF A- OR BETTER. IN THE EVENT OF A LOSS ARISING OUT OF OR RELATED TO GRANTEE'S USE OF THE ROUTE UNDER THIS AGREEMENT, GRANTEE'S INSURANCE SHALL BE PRIMARY (PAY FIRST) WITH RESPECT TO ANY OTHER INSURANCE WHICH MAY BE AVAILABLE TO GRANTEE, REGARDLESS OF HOW THE "OTHER INSURANCE" PROVISIONS MAY READ.

10.6 GRANTEE SHALL FURNISH TO GRANTOR WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THIS AGREEMENT AND AT THE REQUEST OF GRANTOR, BUT NO MORE THAN ANNUALLY, A CERTIFICATE EVIDENCING COMPLIANCE WITH THE FOREGOING REQUIREMENTS. THIS CERTIFICATE WILL LIST GRANTOR AS AN ADDITIONAL INSURED AND WILL INCLUDE THE FOLLOWING CANCELLATION, SUSPENSION, MATERIAL CHANGE OR NONRENEWAL LANGUAGE: "IN THE EVENT OF CANCELLATION, SUSPENSION, MATERIAL CHANGE OR NONRENEWAL OF ANY OF THE SAID POLICIES, THE INSURING COMPANY SHALL GIVE THE PARTY TO WHOM THIS CERTIFICATE IS ISSUED THIRTY (30) DAYS PRIOR NOTICE OF SUCH EVENT."

10.7 AT GRANTEE'S EXPENSE, GRANTOR SHALL HAVE THE RIGHT AT ANY TIME TO REQUIRE PUBLIC LIABILITY INSURANCE AND PROPERTY DAMAGE LIABILITY INSURANCE GREATER THAN THE LIMITS SPECIFIED HEREIN IF SUCH HIGHER LIMITS ARE THE GENERALLY ACCEPTED INDUSTRY STANDARD.

ARTICLE 11: INDEMNIFICATION

11.1 GRANTEE AGREES TO RELEASE, INDEMNIFY, DEFEND, AND HOLD GRANTOR HARMLESS FROM AND DEFEND GRANTOR AGAINST, AND ASSUMES LIABILITY FOR ANY THIRD-PARTY CLAIM RELATING TO, ANY INJURY, LOSS OR DAMAGE BY GRANTEE'S CUSTOMERS AND ALL CLAIMS REGARDING THE CONTENT, INFORMATION OR DATA CONVEYED BY GRANTEE OR ITS CUSTOMERS OVER THE GRANTEE FIBERS.

11.2 EACH PARTY AGREES TO RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE OTHER PARTY FROM AND AGAINST, AND TO ASSUME LIABILITY FOR, ANY THIRD-PARTY CLAIM OR ACTION RELATED TO ANY PERSONAL INJURY OR DEATH TO ANY PERSON, TANGIBLE PROPERTY OR FACILITIES OF ANY THIRD PERSON OR ENTITY TO THE EXTENT IT ARISES OR RESULTS, IN WHOLE OR IN PART, FROM ANY ALLEGED ACT, OMISSION, OR NEGLIGENCE OF SUCH PARTY OR ITS AGENTS OR EMPLOYEES BUT NOT LIMITED TO ANY CLAIM OR ACTION ARISING OR RESULTING, IN WHOLE OR IN PART, FROM ANY BREACH OF SUCH PARTY'S OBLIGATIONS UNDER THIS AGREEMENT.

11.3 An indemnified Party under this Article:

a) must notify the other Party in writing promptly upon learning of any claim or suit for which indemnification may be sought and provide copies of all papers served on or received by the Party, provided that failure to do so shall have no effect except to the extent the other Party is prejudiced thereby;
b) shall have the right to participate in such defense or settlement with its own counsel and at its sole expense, but the other Party shall have control of the defense or settlement;
c) (shall provide the Indemnifying Party reasonable cooperation (e.g., providing copies of documents or testimony of witnesses), at the Indemnifying Party's expense, in the defense of the claim; and
d) shall reasonably cooperate with the defense.

Any settlement or compromise of a claim initiated or entered into by an indemnifying Party must receive the prior written consent of the indemnified Party, such consent not to be unreasonably withheld, conditioned or delayed.

11.4 A party's indemnification obligations shall not be limited by insurance coverages in Article 10.

ARTICLE 12: DEFAULT

12.1 EVENTS OF DEFAULT. AN EVENT OF DEFAULT UNDER THIS AGREEMENT OR A ROUTE ORDER OCCURS IF: (I) GRANTEE FAILS TO PAY ANY UNDISPUTED AMOUNT DUE UNDER THIS AGREEMENT OR A ROUTE ORDER; OR (II) A PARTY FAILS TO PERFORM ANY OTHER MATERIAL OBLIGATION UNDER THIS AGREEMENT OR A ROUTE ORDER. TO THE MAXIMUM EXTENT PRACTICABLE, A DEFAULT WITH RESPECT TO A ROUTE ORDER SHALL NOT IMPACT ANY OTHER ROUTE ORDER ENTERED INTO BY THE PARTIES.

12.2 NOTICE AND RIGHT TO CURE. IF AN EVENT OF DEFAULT OCCURS, THE NON-DEFAULTING PARTY MAY NOTIFY THE DEFAULTING PARTY OF THE EVENT SPECIFYING IN REASONABLE DETAIL THE NATURE OF THE PARTICULAR DEFAULT (A "NOTICE OF DEFAULT"). THE DEFAULTING PARTY SHALL HAVE THIRTY (30) DAYS AFTER RECEIPT OF A NOTICE OF DEFAULT TO CURE THE EVENT OF DEFAULT OR, IF THE EVENT OF DEFAULT IS A NON-MONETARY DEFAULT AND IS REASONABLY CAPABLE OF BEING CURED BUT NOT WITHIN SUCH THIRTY (30) DAY PERIOD, THE DEFAULTING PARTY SHALL HAVE SUCH ADDITIONAL TIME AS IS NECESSARY TO CURE THE EVENT OF DEFAULT PROVIDED THAT THE DEFAULTING PARTY BEGINS AND CONTINUES COMMERCIALLY REASONABLE EFFORTS TO CURE THE EVENT OF DEFAULT AND THE ADDITIONAL PERIOD OF TIME DOES NOT EXCEED THIRTY (30) DAYS.

12.3 REMEDIES.

12.3.1 TERMINATION. IN THE EVENT THE DEFAULTING PARTY FAILS TO TAKE THE CURATIVE ACTION(S) DESCRIBED IN THE PRECEDING PARAGRAPH AFTER HAVING RECEIVED A NOTICE OF DEFAULT, THE NON-DEFAULTING PARTY HAS THE RIGHT, BUT NOT THE OBLIGATION, AND SOLELY AT ITS DISCRETION, TO TERMINATE THIS AGREEMENT OR THE AFFECTED ROUTE ORDER, AS APPLICABLE. TERMINATION WILL BE IMMEDIATE AND EFFECTIVE UPON NOTICE. UPON A TERMINATION OF THIS AGREEMENT BY EITHER PARTY PURSUANT TO THIS ARTICLE 12, ALL IRUS GRANTED UNDER THIS AGREEMENT SHALL TERMINATE AND GRANTOR SHALL DISCONNECT, AT GRANTOR'S EXPENSE, GRANTEE FROM THE GRANTEE FIBERS. UPON A TERMINATION OF A ROUTE ORDER BY EITHER PARTY PURSUANT TO THIS ARTICLE 12, THE IRU GRANTED UNDER THE ROUTE ORDER SHALL TERMINATE AND GRANTOR SHALL DISCONNECT, AT GRANTOR'S EXPENSE, GRANTEE FROM THE GRANTEE FIBERS. EACH PARTY SHALL REMOVE, AT ITS EXPENSE, ALL OF THAT PARTY'S EQUIPMENT FROM THE REAL PROPERTY OR ROW OF THE OTHER PARTY WITHIN THIRTY (30) DAYS OF THE DATE OF TERMINATION OF THIS AGREEMENT OR ROUTE ORDER AND ACCESS SHALL BE PROVIDED IN ORDER TO FACILITATE SUCH REMOVAL. IF ACCESS FOR THE PURPOSE OF REMOVING EQUIPMENT IS MADE AVAILABLE AND A PARTY'S EQUIPMENT IS NOT REMOVED DURING SUCH THIRTY (30) DAY PERIOD, SUCH EQUIPMENT SHALL BE DEEMED ABANDONED AND MAY BE REMOVED BY THE OTHER PARTY.

12.3.2 SPECIFIC PERFORMANCE. THE PARTIES FURTHER AGREE THAT THE RIGHTS TO TERMINATE AND DAMAGES UNDER THIS AGREEMENT MAY NOT BE SUFFICIENT TO COMPENSATE THE NON-DEFAULTING PARTY FOR A DEFAULT BY THE OTHER PARTY IN THE PERFORMANCE OF THE DEFAULTING PARTY'S OBLIGATIONS REQUIRED UNDER THIS AGREEMENT, AND THEREFORE, THAT SPECIFIC PERFORMANCE SHALL BE AVAILABLE TO THE NON-DEFAULTING PARTY AS AN ALTERNATE REMEDY IN THE EVENT THE DEFAULTING PARTY FAILS TO CURE SUCH DEFAULT WITHIN THE CURE PERIOD SET FORTH ABOVE IN SECTION 13.2. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL GRANTEE HAVE THE RIGHT TO SEEK INJUNCTIVE RELIEF TO COMPEL GRANTOR TO ACQUIRE ADDITIONAL ROW IN THE EVENT GRANTOR'S EXISTING ROW IS FOUND TO BE INSUFFICIENT TO SUPPORT THE RIGHTS GRANTED TO GRANTEE UNDER THIS AGREEMENT.

12.3.3 MONETARY DAMAGES. MONETARY DAMAGES FOR EITHER PARTY'S DEFAULT UNDER THIS AGREEMENT ARE SUBJECT TO SECTION 9, ABOVE, AND THE FOLLOWING:

(i) In the case of termination of this Agreement or a Route Order due to a default by Grantee, Grantor shall be entitled to collect any amounts due from Grantee prior to such termination and shall retain the IRU Fee(s) paid by Grantee under the terminated Agreement or Route Order(s); or

(ii) In the case of termination of this Agreement or a Route Order due to a default by Grantor, Grantee will be entitled to a pro rata refund of the IRU Fee paid to Grantor based on the percentage of full calendar months remaining in the Term or Renewal Term, as applicable, under the Agreement or the terminated Route Order(s). (% of Term remaining x IRU Fees per the Route Order = Amount Owed by Grantee). The same computation shall apply to the termination of one Route within a multi-route, Route Order.

ARTICLE 13: IMPOSITIONS

13.1 IN ADDITION TO THE IRU FEE AND OTHER AMOUNTS SET FORTH IN THIS AGREEMENT, GRANTEE AGREES TO PAY ITS SHARE OF TAXES BASED ON THE SALE OF THE IRU OR THE USE OR PROVISION OF THE FIBERS BY GRANTEE ("IMPOSITIONS"). THE PARTIES AGREE TO COOPERATE WITH EACH OTHER TO MINIMIZE THE AGGREGATE IMPOSITIONS PAYABLE WITH RESPECT TO THE GRANTEE FIBERS.

13.2 GRANTOR SHALL BE RESPONSIBLE FOR AND SHALL TIMELY PAY ANY AND ALL IMPOSITIONS WITH RESPECT TO THE CONSTRUCTION, MAINTENANCE OR OPERATION OF THE PORTION OF THE NETWORK ALONG THE ROUTE WHICH IMPOSITIONS ARE (A) IMPOSED OR ASSESSED PRIOR TO THE ACCEPTANCE DATE; OR (B) IMPOSED OR ASSESSED IN EXCHANGE FOR THE APPROVAL OF THE ORIGINAL CONSTRUCTION OF THE NETWORK ALONG THE ROUTE; OR (C) THAT ARE OR WERE ASSESSED IN RETURN FOR THE RIGHT TO INSTALL THE NETWORK ALONG THE ROUTE ON PUBLIC PROPERTY OR IN PUBLIC RIGHT OF WAY OR ON PRIVATE PROPERTY.

13.3 EXCEPT AS TO IMPOSITIONS DESCRIBED IN SECTION 13.2, FOLLOWING THE ACCEPTANCE DATE, GRANTEE SHALL BE RESPONSIBLE FOR AND SHALL PAY ALL IMPOSITIONS (A) IMPOSED ON, BASED ON, OR OTHERWISE MEASURED BY THE GROSS RECEIPTS, GROSS INCOME, NET RECEIPTS OR NET INCOME RECEIVED BY OR ACCRUED TO GRANTEE WITH RESPECT TO THE OWNERSHIP OR USE OF THE GRANTEE FIBERS; OR (B) WHICH HAVE BEEN SEPARATELY ASSESSED, ALLOCATED TO, OR IMPOSED BY REFERENCE TO THE GRANTEE FIBERS. TO THE EXTENT THE IMPOSITIONS ON THE GRANTEE FIBERS ARE NOT SEPARATELY ASSESSED, ALLOCATED TO OR IMPOSED ON THE GRANTEE FIBERS, GRANTOR WILL PAY ALL SUCH IMPOSITIONS. GRANTOR SHALL NOTIFY GRANTEE OF SUCH IMPOSITIONS, AND GRANTEE SHALL PROMPTLY REIMBURSE GRANTOR FOR GRANTEE'S ALLOCABLE SHARE OF ALL SUCH IMPOSITIONS.

13.4 GRANTOR AND GRANTEE AGREE TO COOPERATE FULLY IN THE PREPARATION OF ANY RETURNS OR REPORTS RELATING TO THE IMPOSITIONS, AND IN THE EFFORTS OF EITHER PARTY TO CONTEST AN IMPOSITION. GRANTOR SHALL ALSO BE RESPONSIBLE FOR PAYING ITS SHARE OF ALL TAXES IMPOSED ON GRANTOR OR THE GRANTOR NETWORK, INCLUDING, WITHOUT LIMITATION, ANY TAXES IMPOSED ON THE UNDERLYING FACILITIES, REAL ESTATE RIGHTS, BUILDINGS, EASEMENTS AND OTHER PROPERTY RIGHTS, ON GRANTOR'S NET PROFIT, PAYROLL OR INCOME, OR GRANTOR'S PROPERTY OR ASSETS.

ARTICLE 14: CONFIDENTIAL INFORMATION

COMMENCING ON THE EFFECTIVE DATE AND CONTINUING FOR A PERIOD OF TWO (2) YEARS FROM THE EXPIRATION OR ANY EARLIER TERMINATION OF THE LATER OF THIS AGREEMENT OR ANY ROUTE ORDER, EACH PARTY SHALL PROTECT AS CONFIDENTIAL, AND SHALL NOT DISCLOSE TO ANY THIRD PARTY, ANY CONFIDENTIAL INFORMATION RECEIVED FROM THE DISCLOSING PARTY OR OTHERWISE DISCOVERED BY THE RECEIVING PARTY WHILE THIS AGREEMENT IS IN EFFECT, INCLUDING, BUT NOT LIMITED TO, THE PRICING AND TERMS OF THIS AGREEMENT, AND ANY INFORMATION RELATING TO THE DISCLOSING PARTY'S TECHNOLOGY, BUSINESS AFFAIRS, BROADBAND REQUIREMENTS, OR FINANCIAL STATUS OR RECORDS (COLLECTIVELY THE "CONFIDENTIAL INFORMATION"). THE PARTIES SHALL USE CONFIDENTIAL INFORMATION ONLY FOR THIS AGREEMENT. THE FOREGOING RESTRICTIONS ON USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION DO NOT APPLY TO INFORMATION THAT: (A) IS IN THE POSSESSION OF THE RECEIVING PARTY AT THE TIME OF ITS DISCLOSURE AND IS NOT OTHERWISE SUBJECT TO OBLIGATIONS OF CONFIDENTIALITY; (B) IS OR BECOMES PUBLICLY KNOWN, THROUGH NO WRONGFUL ACT OR OMISSION OF THE RECEIVING PARTY; (C) IS RECEIVED WITHOUT RESTRICTION FROM A THIRD PARTY FREE TO DISCLOSE IT WITHOUT OBLIGATION TO THE DISCLOSING PARTY; (D) IS DEVELOPED INDEPENDENTLY BY THE RECEIVING PARTY WITHOUT REFERENCE TO THE CONFIDENTIAL INFORMATION, OR (E) IS REQUIRED TO BE DISCLOSED BY LAW, REGULATION, OR COURT OR GOVERNMENTAL ORDER. THE PARTIES AGREE THAT ANY PRESS RELEASE DISCLOSING THE FACT THAT THE PARTIES HAVE ENTERED INTO THIS AGREEMENT MUST FIRST BE MUTUALLY APPROVED BY THE PARTIES.

ARTICLE 15: ASSIGNMENT; SUBLEASE

15.1 THE PARTIES AGREE THIS AGREEMENT AND EACH OF THE PARTY'S RESPECTIVE RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT SHALL BE BINDING UPON AND SHALL INURE TO THE BENEFIT OF THE PARTIES HERETO AND EACH OF THEIR PERMITTED SUCCESSORS AND ASSIGNS.

15.2 EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER PARTY SHALL ASSIGN, SELL, TRANSFER, DELEGATE OR IN ANY OTHER MANNER DISPOSE OF ANY OF ITS RIGHTS, PRIVILEGES OR OBLIGATIONS UNDER THIS AGREEMENT WITHOUT THE OTHER PARTY'S PRIOR WRITTEN CONSENT, WHICH SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED. NOTWITHSTANDING THE FOREGOING, EITHER PARTY MAY ASSIGN, SELL, TRANSFER, DELEGATE OR IN ANY OTHER MANNER DISPOSE OF, ANY OF ITS RIGHTS, PRIVILEGES OR OBLIGATIONS UNDER THIS AGREEMENT WITHOUT CONSENT OF THE OTHER PARTY (I) TO AN AFFILIATE OF SUCH PARTY, OR (II) TO ANY SUCCESSOR TO ITS BUSINESS, OR A SUBSTANTIAL PART THEREOF, WHETHER THROUGH MERGER, AMALGAMATION, CONSOLIDATION OR SALE, PROVIDED THE ASSIGNING PARTY NOTIFIES THE NON-ASSIGNING PARTY OF THE ASSIGNMENT IN WRITING AND THE ASSIGNEE AGREES IN WRITING TO BE BOUND BY AND TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE ASSIGNING PARTY UNDER THIS AGREEMENT.

15.3 GRANTEE SHALL HAVE THE RIGHT TO LEASE, SUBLEASE, OR LICENSE, ANY OR ALL OF THE GRANTEE FIBERS OR ANY CAPACITY DERIVED THEREFROM TO ITS CUSTOMERS OR OTHER THIRD PARTIES FOR THE PROVISIONS OF SERVICES OR OTHERWISE; PROVIDED, HOWEVER, THAT GRANTEE SHALL REMAIN SOLELY RESPONSIBLE FOR ITS OBLIGATIONS HEREUNDER AND GRANTOR'S SOLE POINT OF CONTACT UNDER THIS AGREEMENT AND SUCH CUSTOMERS OR THIRD PARTIES SHALL NOT BE ENTITLED TO INDEPENDENTLY ENFORCE ANY OF GRANTOR'S OBLIGATIONS UNDER THIS AGREEMENT.

ARTICLE 16: FORCE MAJEURE

16.1 NEITHER PARTY SHALL BE HELD LIABLE FOR ANY DELAY, OR FAILURE IN PERFORMANCE OF ANY OBLIGATION UNDER THIS AGREEMENT WHEN SUCH DELAY OR FAILURE RESULTS FROM ANY CAUSE BEYOND ITS CONTROL, SUCH AS: ACTS OF GOD, ACTS OF CIVIL OR MILITARY AUTHORITY, GOVERNMENTAL REGULATIONS, WAR, TERRORIST ACTS, INSURRECTIONS, EXPLOSIONS, FIRES, EARTHQUAKES, TORNADOES, NUCLEAR ACCIDENTS, FLOODS, STRIKES NOT ATTRIBUTABLE TO ACTS OF A PARTY AT ODDS WITH APPLICABLE LAW, POWER BLACKOUTS, OTHER MAJOR ENVIRONMENTAL OR WEATHER CONDITIONS OR INABILITY TO SECURE EQUIPMENT, PROVIDED THE PARTY CLAIMING RELIEF UNDER THIS ARTICLE SHALL PROMPTLY NOTIFY THE OTHER IN WRITING OF THE EXISTENCE OF THE EVENT RELIED ON AND THE CESSATION OR TERMINATION OF SAID EVENT. THE PARTY CLAIMING RELIEF UNDER THIS ARTICLE SHALL NOTIFY THE OTHER PARTY IN WRITING OF THE EXISTENCE OF THE EVENT, NATURE OF THE EVENT, STEPS TAKEN OR TO BE TAKEN TO MITIGATE THE EFFECTS OF THE EVENT, THE EXPECTED DURATION OF THE EVENT AND EXERCISE BEST EFFORTS TO MINIMIZE THE TIME FOR ANY SUCH DELAY.

16.2 Notwithstanding the foregoing, if an event of Force Majeure prevents Grantee from using the Grantee Fibers for a period of forty-five (45) or more consecutive days, Grantee shall have the right to cancel the affected Route Order (and any related Colocation Services) without liability or further obligation upon written notice to Grantor and Grantor shall provide Grantee with a pro-rata refund of the IRU Fee (and any a related Colocation Services fee) as of the date of termination (as determined on a pro rata basis based on the total number of days in the IRU Term and the number of days remaining in such term as of the termination date).

ARTICLE 17: NOTICES

17.1 Notices given under this Agreement shall be in writing and will be deemed given: (a) three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified with return receipt requested, (b) two (2) days after deposit, if sent by overnight courier, or (c) upon receipt, if delivered via hand delivery. All notices shall be sent to:

Invoices/Legal/Contractual Notices:

Grantee:

Attention:

Phone No.:

NA Service Company
2122 W. Cherry Drive

MS# 3164

Phoenix, AZ 85012

Attention: Dominic Pagliuca

Telephone: (602) 371-7063

Facsimile: (602) 371-6321

With a copy (which shall not alone constitute notice) to:
Pinnacle West Capital Corp.
400 N. Fifth Street

Phoenix, NA 85004

Attention: Law Department

Telephone: (602) 250-2584

Facsimile: (602) 250-3393

Or to replacement addresses which a Party may later designate in writing.

ARTICLE 18: MISCELLANEOUS

18.1 THE FAILURE OF EITHER PARTY TO GIVE NOTICE OF DEFAULT OR TO ENFORCE OR INSIST UPON COMPLIANCE WITH ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT SHALL NOT BE CONSIDERED THE WAIVER OF ANY OTHER TERM OR CONDITION OF THIS AGREEMENT.

18.2 GRANTOR HAS THE RIGHT TO CONTRACT WITH AFFILIATES AND/OR THIRD PARTIES FOR THE INSTALLATION, INSPECTION, MAINTENANCE AND REPAIR OF THE GRANTEE FIBERS AND THE NETWORK. THE USE OF AFFILIATES AND/OR THIRD PARTIES SHALL NOT RELEASE GRANTOR FROM ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

18.3 THIS AGREEMENT DOES NOT CONSTITUTE EITHER PARTY AS THE AGENT OR LEGAL REPRESENTATIVE OF THE OTHER PARTY AND DOES NOT CREATE A PARTNERSHIP OR JOINT VENTURE BETWEEN THE PARTIES. THE PARTIES MAY ENGAGE IN AND POSSESS OTHER BUSINESS VENTURES WHICH ARE COMPETITIVE WITH THE FACILITIES AND RELATED SERVICES UNDER THIS AGREEMENT. THIS AGREEMENT IS NOT INTENDED TO BE AN EXCLUSIVE AGREEMENT FOR DARK FIBER OR ANY SERVICES. THIS AGREEMENT IS NOT INTENDED TO PROVIDE BENEFITS FOR ANY THIRD PARTY.

18.4 THIS AGREEMENT, INCLUDING ALL ROUTE ORDERS, EXHIBITS, ADDENDA, AND OTHER ATTACHMENTS, SETS FORTH THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER CONTAINED HEREIN AND MAY NOT BE AMENDED OR MODIFIED EXCEPT BY WRITTEN DOCUMENT SIGNED BY BOTH PARTIES.

18.5 IF ANY PROVISION OF THIS AGREEMENT IS HELD TO BE UNENFORCEABLE, THE REMAINING PROVISIONS WILL REMAIN IN EFFECT, TO BE CONSTRUED AS IF THE UNENFORCEABLE PROVISIONS WERE ORIGINALLY DELETED.

18.6 A WAIVER OF A BREACH OF ANY PROVISION OF THIS AGREEMENT WILL NOT CONSTITUTE A WAIVER OF THE SAME OR ANY OTHER PROVISION. THIS AGREEMENT IS DEEMED EXECUTED IN AND SHALL BE CONSTRUED UNDER THE LAWS OF THE STATE OF NA, WITHOUT REFERENCE TO CHOICE OF LAW PRINCIPLES. THE PARTIES HEREBY EACH AGREE THAT ANY AND ALL DISPUTES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT ARE SUBJECT TO THE EXCLUSIVE JURISDICTION OF FEDERAL OR STATE COURTS LOCATED IN MARICOPA COUNTY, NA. EACH PARTY HEREBY WAIVES A RIGHT TO A JURY TRIAL AND ACKNOWLEDGES THAT IT IS SUBJECT TO GENERAL PERSONAL JURISDICTION IN THE STATE OF NA. ANY LEGAL ACTION ARISING IN CONNECTION WITH THIS AGREEMENT MUST BEGIN WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ARISES.

18.7 IN THE EVENT OF A CONFLICT AMONG COMPONENTS OF THIS AGREEMENT, PRECEDENCE WILL BE DETERMINED IN THE FOLLOWING ORDER: (A) ANY AMENDMENTS TO THIS AGREEMENT, (B) THIS AGREEMENT; (C) EXHIBITS, AND (D) THE ROUTE ORDER(S). FOR THE AVOIDANCE OF DOUBT, TO THE EXTENT A PROVISION OF A ROUTE ORDER INCLUDES A PROVISION DIFFERING FROM THIS AGREEMENT AND/OR EXHIBITS, PURSUANT TO TERMS OF THE AGREEMENT EXPRESSLY PERMITTING A ROUTE ORDER TO PROVIDE “OTHERWISE,” SUCH DIFFERENCE SHALL NOT BE DEEMED A “CONFLICT” FOR PURPOSES OF THIS SECTION.

18.8 NOTWITHSTANDING OTHER PROVISIONS OF THIS AGREEMENT, THERE WILL BE NO EXPIRATION OF THE RIGHTS AND OBLIGATIONS OF EITHER PARTY UNDER ARTICLES 9, 11, 12, 14 AND 15, AS WELL AS THOSE PROVISIONS OF THIS AGREEMENT WHICH BY THEIR SENSE AND CONTEXT ARE INTENDED TO SURVIVE THE COMPLETION OF PERFORMANCE AND TERMINATION OF THIS AGREEMENT, WITH RESPECT TO MATTERS OR CLAIMS ARISING OR ACCRUING PRIOR TO OR AS OF THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

18.9 EACH PARTY WILL PERFORM ITS OBLIGATIONS HEREUNDER IN SUCH A MANNER THAT ITS PERFORMANCE DOES NOT VIOLATE ANY GOVERNMENTAL LAW, RULE, OR REGULATION IN ANY MATERIAL RESPECT. EACH PARTY HERETO SHALL BEAR ALL OF ITS OWN EXPENSES AND FEES (INCLUDING ANY LEGAL, ACCOUNTING, PROFESSIONAL OR BROKERAGE FEES) INCURRED IN CONNECTION WITH THE NEGOTIATION AND DRAFTING OF THIS AGREEMENT.

18.10 THE HEADINGS IN THIS AGREEMENT ARE FOR THE CONVENIENCE OF THE PARTIES AND WILL HAVE NO EFFECT ON THE LEGAL INTERPRETATION OF THIS AGREEMENT.

18.11 THIS AGREEMENT SUPERSEDES ALL PREVIOUS DISCUSSIONS, NEGOTIATIONS, REPRESENTATIONS, OR AGREEMENTS RESPECTING THE SUBJECT MATTER HEREOF AND SHALL NOT HEREAFTER BE CHANGED OR MODIFIED IN ANY RESPECT UNLESS IN WRITING.

18.12 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one instrument.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement on the dates set forth below by their duly authorized representatives.

	GRANTEE
By:_____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Attachments

Exhibit A Route Order

Exhibit B. Fiber Specifications: Acceptance

Exhibit C. Escalation Lists and Contact Information

EXHIBIT A

Route Order

Route Order No. ___

.

This Route Order is entered into between NA Service Company ("Grantor") and _____ ("Grantee"), each individually referred to as a "Party" and collectively referred to as the "Parties," on this _____ of _____, 202__, ("Effective Date") pursuant to and subject to the Indefeasible Right of Use Agreement entered into by Grantor and Grantee on or about the ____ of _____ 2020 ("the Agreement"). Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

Grantor's Billing Address:

Contact**:**

Phone**:**

Payment Address**:**

Grantee's Invoice Address:

Contact:

Phone**:**

Invoice Address**:**

Route of Grantee Fibers: (*Endpoint to endpoint***)**

Route Map. A map depicting the IRU Route is attached as Exhibit A to this IRU Order.

Number of Dark Fibers: _____

Route Mileage: _____ (Mileage for routes that are yet to be constructed as of the execution of the relevant Route Order may be adjusted based on field surveys or OTDR testing.)

Demarcation Points Other than Endpoints:

Projected Delivery Date of Grantee Fibers (subsequent to Grantor's acceptance test):

Term: 20 years

Renewal Term: Five (5) Years (as defined under Section

Fees:

IRU Fee: $

Initial Annual Maintenance Fee: $

Renewal Term Fee: $

Upon the Acceptance Date of this Route Order and payment of the IRU Fee and the initial Annual Maintenance Fee, and subject to the terms and conditions of the IRU Agreement, Grantor hereby grants and conveys to Grantee an Indefeasible Right of Use in the Fibers as defined herein.

Counterparts. This Route Order may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Route Order on the dates set forth below.

NA SERVICE COMPANY	GRANTEE
By: _____	By: _____
Signature	Signature
Name: _____	Name: _____
Printed Name	Printed Name
Title: _____	Title: _____
Date: _____	Date: _____

(Additional pages may be added as necessary.)

Exhibit A

Route Map

EXHIBIT B

Acceptance Testing

This Exhibit sets forth (i) the acceptance tests that Grantor shall perform to demonstrate that the Licensee Fibers meet the minimum standards acceptance and the deliverables describing the test results that Grantor will provide to Grantee, and (ii) the operating parameters for the Licensee Fibers that Grantor shall maintain after acceptance.

1. Fiber

The Fiber type shall be either ITU-T G.652.D or ITU-T G.655 compliant and may be aerial or underground as determined by Grantor. Consistent with industry standards, Grantor will keep the number of splices on each Span on a Route to a minimum in accordance with industry standards and shall not exceed .25 splices/km per Span on an inter-city Route or .5 splices/km per Span on an intra-city (i.e., metro) Route. The number of "core changes" (e.g., where fibers with different core diameters are spliced or patched together) in a Span shall not exceed the number of splices for the relevant Span as specified in the Order for the Fiber.

2. Fiber Tests

Grantor will test the Licensee Fibers in accordance with this Exhibit and provide the test results to Grantee. Grantor shall perform both Optical Time Domain Reflectometer ("OTDR") and (ILM) Insertion Loss Measurement tests on all Fibers.

2.1 OTDR Tests

The optical reflectivity of each Licensee Fiber will be measured using an Optical Time Domain Reflectometer ("OTDR"). Tests shall be performed on each Fiber on a bi-directional basis at 1310nm, 1550nm and 1625nm, provided Spans in excess of 60 km shall be tested only at 1550nm and 1625nm. Three types of OTDR traces shall be taken, end-to-end traces, medium traces (20 km) and short traces (5 km). End-to-End OTDR span traces will be taken on a bi-directional basis and splice loss measurements will be recorded. Connector OTDR traces will be taken on a bi-directional basis using short pulse widths for connector detail. A connector trace shall be provided for all connectors in the end-to-end fiber path on the Span. All OTDR traces are to be taken using a 1km launch reel. Connectors shall be cleaned as necessary to ensure accurate measurements are taken.

2.2 ILM Tests

ILM Tests shall be performed on each Fiber on a bi-directional basis at 1310nm, 1550nm and 1625nm. A calibrated optical power meter and stable industry-accepted laser source light source will be used for this measurement.

3. Fiber Acceptance Criteria

The Fiber shall meet the specifications set forth below as of the Acceptance Date.

3.1 End-to-End Acceptance Parameters

Maximum Average Loss. The maximum bi-directional average loss on a Span as measured with a power meter test set shall not exceed the following on the Fiber Acceptance Date:

Maximum Span Loss = (A * L) + (0.7 * N) + (0.5 * C)

A = Maximum attenuation per km:

- At 1310nm: 0.4 dB/km average loss including all splices and connectors.
- At 1550nm: 0.30 (per manufacturers spec) dB/km average loss including all splices and connectors.
- At 1625nm: 0.26 dB/km average loss including all splices and connectors.

L = Optical length of cable measured in kilometers (from OTDR trace)

N = Number of "core changes" (e.g., where fibers with different core diameters are spliced or patched together)

C = Number of mated connector pairs. The attenuation contribution of each pigtail with associated connector is considered to be 0.5 dB per mated connector pair.

Maximum Average Splice Loss. The bi-directional average splice loss per Span as measured with an OTDR at 1550nm shall not exceed 0.1 dB when calculated as the sum of all bi-directional splice losses (including both individual splices and mass splices) divided by the number of splices on the Span.

Maximum Loss Differential. The maximum in the loss differential as measured at 1550 nm between two Fibers in any pair on a Span shall be less than 1.5 dBs.

4. Deliverables

Upon completion of its acceptance testing, Grantor shall provide to Licensee the following test data for each Span (the "Deliverables"). All data shall be provided in the format noted below when Grantor notifies Licensee that the Fiber meets the acceptance criteria.

- Bi-directional OTDR span traces taken as specified above. Results shall be provided in the original electronic format created by the test instrument (SOR or .TRC) as well as an electronic print in .PDF format.
- An Excel spreadsheet containing the bi-directional power meter and light source test data for both directions. This spreadsheet will include the average Span loss for each Fiber and the loss differential between Fibers.
- A document identifying all splices and connectors with test results, out-of-spec splices (if any), a splice table with distances from the end-point, connector test results from both end-points, the average connector loss per mated pair, the maximum bi-directional average loss for a core change and the loss for each core change, and the reflection for each event.

EXHIBIT C

Escalation Lists and Contact Information
Outages and Troubles

NA Service Company

1. Primary Contact Number for Trouble Reporting
602-371-7511

itops@NA.com

2.

Work

Mobile

Email:

3.

Work

Mobile

Email:

4.

Work

Mobile

Email:

5.

Work

Mobile

Email:

Note: The Grantor phone numbers provided above should be called in order with the Primary Contact for Trouble Reporting being the first-dialed. The numbers may change over time; therefore, this schedule is subject to updates, which shall be provided to Grantee by way of advance written notice.

Grantee: _____

Primary Contacts for Trouble Notification and Updates: _____

MASTER CUSTOMER AGREEMENT

This Master Customer Agreement ("**MCA**") is effective as of **Month Day** 20 **YR** ("**Effective Date**") between NA Group, LLC, a Delaware limited liability company, with an address of 1821 30th Street, Unit A, Boulder, CO 80301 (collectively "**NA**" and each entity controlled by, controlling or under common control with NA, a "**NA Affiliate**") and **(Insert Customer Name)** , a **(Insert Country/State/Province/etc.**) **(Insert corporation/limited liability company/partnership/ect.)** with an address of **(Insert Address)** ("**Customer**"). NA and Customer each may be referred to herein as a "**Party**" and collectively as the "**Parties**".

ARTICLE 1 - GENERAL

1.1 **Agreement Structure**. This MCA provides general terms and conditions under which Customer may from time to time purchase access to and utilization of selected portions of the NA fiber network and associated infrastructure ("**Access**") and certain related telecommunications and infrastructure services ("**Services**") from NA. Terms and conditions that apply to Access and to each type of Service are set forth in customer schedules (each a "**Customer Schedule**"). Access and Services may also be referred to as offerings ("**Offerings**") in the Customer Schedule and Customer Orders. This MCA, applicable Customer Schedules, and Customer Orders are collectively the "**Agreement**". Any part of the Agreement may be entered into and performed by any NA Affiliate, including those authorized to provide Access or Services in any country or jurisdiction.

1.2 **Orders for Access and/or Services**. Customer may request that NA provide Access and/or Services by submitting a customer order in a form provided by NA ("**Customer Order**"). Customer is responsible for the accuracy of all information that it provides to NA. Customer Orders shall set forth the term, pricing, Access and Service type and location(s), monthly recurring charge ("**MRC**"), non-recurring charge ("**NRC**") and any additional terms applicable to the Access and/or Services. All Customer Orders are subject to availability and acceptance by NA, and are governed by this Agreement.

1.3 **Term.** The term of each Customer Order shall commence on the Activation Date (as defined in the applicable Customer Schedule) for such Access and/or Service and continue for the period of time specified in that Customer Order. Thereafter, the term shall automatically renew for one year periods (collectively, the "**Order Term**") until terminated by either Party upon at least 90 days written notice prior to the end of the Order Term. Customer is responsible for payment to NA for the Access and Services to be terminated through the date of termination. The term of the Agreement is coterminous with the longest Order Term hereunder.

1.4 **Order of Precedence**. In the event of an express conflict between terms in the Agreement, precedence will be given, as applicable, in the following order: (a) the Customer Order, but solely with respect to the Services covered by such Customer Order (b) the Customer Schedule, but solely with respect to the Services covered by such Customer Schedule, and (c) the MCA.

ARTICLE 2 - PAYMENT TERMS

2.1 **Invoicing and Payment Terms**. NA commences billing and Customer shall be liable for payment upon the Activation Date. NA will provide Customer with a monthly itemized invoice for the Access and Services together with all other charges due. Customer shall pay to NA all amounts due in full, without offset or reduction, within 30 days from the date of the invoice ("**Due Date**"). Invoice amounts not paid on or before the Due Date shall bear interest at the rate of one and one-half percent per month or the highest lawful rate, whichever is lower. Unless otherwise stated in the Agreement, NA invoices NRCs upon acceptance of a Customer Order.

2.2 **Invoice Disputes**. If Customer reasonably disputes any portion of an invoice, Customer shall timely pay all undisputed amounts and shall notify NA in writing and provide detailed documentation supporting its dispute by the Due Date or Customer's right to any billing adjustment shall

be waived. If the dispute is resolved against Customer, Customer shall pay such amounts due plus interest, as set forth in Section 2.1 above, from and after the Due Date.

2.3 Taxes and Other Fees and Surcharges. Excluding taxes based on NA's net income, Customer shall be responsible for all Taxes (defined below) and Other Fees and Surcharges (defined below) arising in any jurisdiction imposed on or incident to the provision, sale or use of Access or Services, including but not limited to value added, consumption, sales, use, gross receipts, foreign withholding (which will be grossed up), excise, access and bypass (collectively "**Taxes**") and any property, franchise, rights of way, license or permit, regulatory or other taxes, duties, fees, charges or surcharges (collectively "**Other Fees and Surcharges**"). Charges for Access and Services are exclusive of any Taxes and Other Fees and Surcharges. Taxes and Other Fees and Surcharges may be recovered through

imposition of a percentage surcharge on the charges for Access and Services to Customer. Customer may present NA with a valid exemption certificate (in a form reasonably acceptable to NA); NA will give effect thereto prospectively.

2.4 **Portability**. Customer may terminate an existing Service (the "**Original Service**") and make a one-time request that such Service be replaced by a new Service ("Replacement Service"), and Customer will not incur any early termination liability with respect to the Original Service, as long as: (a) the Original Service is On-Net, (b) the Original Service has been in-service for at least twelve (12) months of the Order Term, and (c) Customer submits, and NA accepts, a Customer Order for the Replacement Service that complies with the requirements of this provision (the "**Replacement Customer Order**"). The Replacement Customer Order shall reflect (i) an Order Term of at least one (1) additional year beyond the expiration date of the Order Term for the Original Service, (ii) an MRC at least equal to the MRC of the Original Service and (iii) an NRC to implement the Replacement Service (which may include costs incurred but not recovered under the Original Service). Customer may not terminate the Original Service until commencement of the Replacement Service, and must provide NA at least thirty (30) days' written notice of disconnection prior to disconnection of the Original Service. Customer must pay all charges for the Original Service through the disconnection date. "On-Net" means any Service which connects two locations to which NA is already providing the same type of Service at the time of the Order and which is provisioned entirely on NA facilities and does not include any third party services or special construction.

ARTICLE 3 - DEFAULT

If Customer fails to make any payment due under the Agreement by the Due Date, and such failure continues for five days after receiving notice of the failure to make payment, or if a Party fails to cure any material breach of any term of the Agreement within 30 days of receiving notice of the breach from the other Party, then the non-breaching Party may: (a) terminate the Agreement in whole or in part and (b) subject to the liability limitations stated herein, pursue any available remedies at law or in equity.

ARTICLE 4 - LIABILITIES

4.1 **Damage Limitations**. Except for indemnity obligations arising under Section 4.4, confidentiality obligations arising under Section 5.1, or payment obligations arising under this Agreement: (i) each Party's total liability for any and all causes and claims whether based in contract, warranty, tort or otherwise shall be limited to the actual direct damages sustained by the damaged Party under this Agreement, but in no event greater than an amount equivalent to the total MRC payable by Customer over the preceding twelve months for the Access or Service affected or if the claim arises prior to the Activation Date, an amount equivalent to the total MRC payable by Customer for the first twelve months of the Order Term, and (ii) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF DATA, ANTICIPATED SAVINGS OR COST OF PURCHASING REPLACEMENT SERVICES, OR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM UNDER THE AGREEMENT.
Notwithstanding anything to the contrary, Customer's sole and exclusive remedy for any non-performance, defect or failure to deliver the Access or Service are the performance credits and/or other remedies expressly stated in the relevant Customer Schedule.

4.2 **No Warranty**. NA MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

4.3 **No Liability for Certain Actions**. NA exercises no control over and is not responsible for the content of any information transmitted or received through the use of the Access or the Services. Other than as expressly stated in the Agreement, Customer shall be solely responsible for all of the security and confidentiality of information it transmits using the Access or Service.

4.4 Indemnification. Each Party (an "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party, its directors, officers, employees, agents, contractors, successors and assigns ("**Indemnified Party**") harmless from and against all losses, damages, costs, expenses and liabilities (including reasonable attorney's fees and expenses) incurred by such Indemnified Party arising from any third party claims relating to: (i) any physical damage to tangible property, or personal injury or death caused by the gross negligence or willful misconduct of the Indemnifying Party, or (ii) infringement or misappropriation of such third party's intellectual property right caused by the Indemnifying Party, provided, however, that NA is not obligated to indemnify Customer, and Customer shall defend and indemnify NA as an Indemnified Party, for any claims or actions commenced by any third party, including end users, arising from or in connection with goods or services provided by Customer that incorporate any of the Access or Services.

ARTICLE 5 – MISCELLANEOUS PROVISIONS

5.1 **Confidentiality.** Information or documentation exchanged between the Parties in performing this Agreement, including the terms of this Agreement, are subject to the terms of any non-disclosure agreement in effect between the Parties, and if none, neither Party will disclose Confidential Information to third parties (other than to vendors, if and as needed to perform under this Agreement) without the express consent of the other Party. Each Party will limit disclosure and access to Confidential Information to those of its employees, vendors, or other representatives who reasonably require such access to perform under this Agreement and who are subject to confidentiality obligations at least as restrictive as those required herein. "Confidential Information" means any information disclosed by one Party to the other in connection with the Agreement, including any terms of this Agreement and does not include information that: (i) is independently developed by the receiving Party, (ii) is lawfully received by the receiving Party free of any obligation to keep it confidential, or (iii) becomes generally available to the public other than by breach of this Agreement.

5.2 **Force Majeure.** Neither Party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure or hindrance of performance hereunder due to causes beyond its reasonable control (a "**Force Majeure Event**"). The Party claiming relief under this Section shall notify the other Party of the occurrence or existence of the event and of the termination of such event.

5.3 **Subject to Laws**. Each Party is responsible for complying with laws and regulations applicable to it, including but not limited to applicable: (a) federal, state and local laws; (b) regulations, rulings and orders of government agencies; (c) data protection legislation; (d) laws, statutes, regulations and codes relating to anti-bribery and anti-corruption; and (e) import, export and economic sanction laws and regulations. Neither Party shall use the Access or Services for any unlawful purposes.

5.4 **Governing Law; Venue; Prevailing Party**. The Agreement shall be governed by and construed in accordance with the laws of Delaware, without giving effect to any conflict of law principles. Venue arising under the Agreement shall be Delaware. The United Nations Convention on Contracts for the International Sale of Goods does not apply. If suit is brought or an attorney is retained by either party to enforce the terms of the Agreement or to collect any money as due hereunder or to collect any money damages for breach hereof, the prevailing party shall be entitled to recover its reasonable attorneys' fees and related expenses incurred in connection therewith.

5.5 **Notices**. Notices under this MCA shall be in writing and delivered by electronic mail or certified mail, return receipt requested, or by a nationally recognized courier to the persons whose names and business addresses appear below, and such notice shall be effective on the date of receipt, or refusal of delivery, by the receiving Party. **In lieu of the foregoing notice requirement, if Customer is disconnecting Access or discontinuing Service(s) of any type for any reason, Customer must submit the disconnection request through the form located at https://www.NA.com/disconnectservice/**

IF TO NA:

NA Group, LLC
Attn: General Counsel,
Legal 1821 30th Street,
Unit A Boulder, CO
80301
Email: legal@NA.com

Billing Disputes:

NA Group, LLC:
Attn: Accounts
Receivable 1821 30th
Street, Unit A Boulder,
CO 80301
Email:
customerservice@NA.com

If to Customer:

[INSERT CUSTOMER NAME]

Attn: **(insert Name) (Address)**

CITY STATE ZIP

Email: **(insert email)**

(if this "Customer" section is left blank, notice shall be deemed effective if delivered to Customer's registered office address or the last Customer address provided to NA by Customer)

5.6 **Assignment**. Neither Party shall transfer or assign, voluntarily or by operation of law or otherwise, its obligations under the Agreement without the prior written consent of the other party, except no such consent shall be required in the event of a merger, reorganization, consolidation

or sale of substantially all of the Party's assets or business in which case the assigning party shall provide notice to the non-assigning Party; provided, however, that Customer may only transfer or assign under this provision if its account balance with NA is current. NA may assign in whole or in part the Agreement or any of its rights and obligations hereunder to any NA Affiliate without prior notice to Customer. The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

5.7 **No Third Party Beneficiaries; Relationship and Counterparts**. The Agreement is not intended for, nor shall it be for the benefit of or enforceable by, any third party or person not a Party hereto, including without limitation, end users. The Agreement does not create a partnership, joint venture or agency relationship between the Parties. Neither Party shall have any authority to bind the other Party to any agreement, understanding or other instrument, in any manner whatsoever. The Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. The Agreement may be executed via a recognized electronic signature service and/or signed, scanned and emailed to NA, and any such signatures shall be treated as original signatures.

5.8 **Entire Agreement; Amendment**. The Agreement constitutes the entire and final agreement and understanding between the Parties, expressed or implied, with respect to the Access and Services ordered after the Effective Date and supersedes all other prior or contemporaneous representations, understandings or agreements. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by the Parties. If any provision of the Agreement shall be held to be invalid or unenforceable, the remaining provisions of the Agreement shall be unimpaired and shall remain in effect and be binding upon the Parties. No course of dealing and no failure to exercise any right hereunder shall be construed as a waiver of any provision hereof.

NA GROUP, LLC	**[CUSTOMER NAME]**
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____

CUSTOMER SCHEDULE DARK FIBER

Customer Name
Customer:

This Dark Fiber Customer Schedule (**"Customer Schedule"**) is subject to, and made a part of, that Master Customer Agreement or Master Services Agreement (herein referred to as the "Master Customer Agreement" or **"MCA"**) entered into between the undersigned Parties. NA owns and operates fiber networks and other related telecommunications facilities and is in the business of leasing dark optical fiber strands (**"Dark Fiber"**) within the NA network (**"Dark Fiber Offerings"** or **"Offerings"**). Capitalized terms not defined herein will have the meaning ascribed to them in the MCA.

1. **DEFINITIONS.** The following additional definitions shall apply to Dark Fiber Offerings:

1.1 **Allocated MRC** means a portion of a Monthly Recurring Charge allocated by Segment on a pro-rata basis, unless otherwise specified in a Customer Order.

1.2 **Costs** mean any applicable cancellation, termination or other charges from a third party, charges for make ready work, permitting and engineering fees, building access or license fees, NA standard labor charges, special construction charges and/or materials and equipment costs.

1.3 **Customer Requirements** shall have the meaning set forth in Section 4.1 below.

1.4 **Demarcation Point** is the network interface point specified on a Customer Order where Customer's handoff occurs.

1.5 **Estimated Access Date** is the date or access/delivery interval, specified in a Customer Order, in which NA estimates the Dark Fiber Offering to be available to Customer.

1.6 **Offering Specifications** means both the definitions and performance specifications of an Offering detailed herein and in a Customer Order.

1.7 **Segment** is a span of Dark Fiber between Locations specified in a Customer Order.

2. **GRANT OF LEASE**. As of the Activation Date for any Dark Fiber ordered under a Customer Order, NA agrees to lease to Customer, and Customer agrees to lease from NA, the number of strands of Dark Fiber in the configuration described in the Customer Order. Any materials, components, equipment, optical fiber cable and other property of NA shall remain NA's property even if affixed to or installed within the real property of Customer. Customer acknowledges that it has no option to purchase any part of the materials, components, equipment, optical fiber cable and other property of NA installed between the Demarcation Points. Customer shall keep NA's facilities and the Dark Fiber free from all liens, including but not limited to mechanics liens, and encumbrances by reason of the use of the Dark Fiber by Customer. If Customer fails to pay, or bring appropriate challenge to, any taxes, assessments, or other fees, and such failure results in the imposition of a lien or encumbrance on the Dark Fiber or an assessment directly against NA, NA shall have the right to pay the same and charge the amount thereof to Customer, who shall pay the same promptly upon demand. This right is in addition to any other right provided to NA herein to remedy a breach of this Customer Schedule. Customer shall be responsible for obtaining and maintaining any rights or licenses required for it to lease, use, occupy or operate the Dark Fiber.

3. CUSTOMER REQUESTS AND ACCESS

3.1. **Customer Order Acceptance**. Within five (5) business days of NA's acknowledgment to Customer of receipt of a Customer Order, NA will notify Customer (in writing or electronically) of its acceptance of the Customer Order ("**Customer Order Acceptance**"), at which time such Customer Order becomes a binding obligation to purchase the Offerings therein, or rejection of such Customer Order, in which case NA will communicate to Customer why it is unable to accept such Customer Order. NA may accept or reject any submitted Customer Order in its sole discretion. Unless otherwise provided in the MCA or this Customer Schedule, Customer's obligations specified in an accepted Customer Order are non-cancellable. Dark Fiber Offerings are subject to availability and NA retains the right to cancel a Customer Order at any time prior to delivery of the Activation Notice (as defined below).

3.2. **Activation**. After NA has determined that the Offering conforms to the relevant Offering Specifications as described in Exhibit B at the time of delivery, NA will provide Customer with a Close Out Package as defined in Exhibit B **("Activation Notice**"). The **"Activation Date**" shall be the earlier of (i) the date on which Customer begins using the Offering for any purpose other than testing or (ii) the date that NA has sent the Activation Notice to Customer. Customer shall have ten (10) days in which to notify NA that it is rejecting the Offering that does not meet the Offering Specifications. If Customer has notified NA within such ten (10) day period that the Offering does not meet the Offering Specifications, and provided that such notification is legitimate, then NA shall take such steps reasonably necessary to cause the Offering to meet the Offering Specifications, at which time NA shall issue a new Activation Notice and the acceptance process above shall be repeated. Customer's failure or delay to test the Offering or failure or delay to utilize the Offering on or after the Customer Activation Notice date shall not prevent NA from billing Customer for the Offering. The billing of any recurring charges shall begin on the Activation Date and continue throughout the Order Term. If the Activation Date is delayed as a result of Customer's failure to meet its responsibilities under the MCA or this Customer Schedule including obtaining the

necessary Customer Requirements, NA may continue with the acceptance procedures to the extent possible and the Activation Date will be deemed to occur as of the Estimated Access Date or the date that NA is ready to provide access to the related Offering, whichever is later.

3.3. **Incrementally Provided Segments.** Unless otherwise specified in a Customer Order, NA may incrementally provide access to individual Segments of an Offering, when ready, which may result in different Activation Dates for such incrementally provided Segments. The initial Order Term for each incrementally provided Segment shall begin on its respective Activation Date and end after the period specified as the Order Term from the Activation Date of the last Segment provided. The charge associated with a provided Segment will be based on the Allocated MRC.

4. COMPONENTS AND INSTALLATION

4.1. **Access and Customer Premises Obligations.** In support of NA meeting the Estimated Access Date, Customer specifically acknowledges that Customer is responsible for all work and Costs on the premise side of each Demarcation Point, including technically compatible cross-connections. In addition, Customer shall be responsible for securing all rights and paying the related Costs to connect to the Demarcation Point and for securing all rights and paying the related Costs to access, occupy, and conduct typical telecommunication operations within and to each respective building (including any necessary rights for NA to enter and access each building), and for providing all necessary cable pathways in and to the respective buildings (all of the preceding may include, but not be limited to, construction permits and underlying rights, wayleaves, building access and/or occupancy agreements, building access and/or occupancy fees, lateral/conduit fees, riser fees, cross-connects and cross-connect fees, coordination at any third party owned location, and, where applicable, necessary space for NA's fiber termination panel). All of the above, collectively, shall be referred to as **"Customer Requirements"** and Customer shall reimburse NA in the event that a third party bills NA for charges related to such Customer Requirements. If Customer satisfies a Customer Requirement by purchasing Service from NA, NA may pass through and Customer shall pay NA for any increase in the charges to NA by a third party which NA utilizes to provide Customer the Customer Requirement. Customer acknowledges that any delay in Customer providing such Customer Requirements may delay NA from completing work at any location.

4.2. **NA Facilities.** NA, or its agent, may provide, install, maintain, repair, operate and control NA's conduit, optical fiber cable, fiber termination panels or any other components or equipment ("**NA Facility(ies)**"). Any facilities, components, or equipment that is not a NA Facility is a "**non-NA Facility(ies)**." Customer shall be liable for any loss of or damage to NA Facilities caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse NA for the same. If, on responding to a Customer initiated support call, NA reasonably determines that the cause of the deficiency was a failure, malfunction or the inadequacy of facilities, components, or equipment other than NA Facilities, Customer shall compensate NA for actual time and materials expended during the support call and for any work performed by NA on non-NA Facilities.

5. USE OF DARK FIBER

5.1. Subject to the limitations set forth in this Customer Schedule, Customer shall use the optical fiber strands of the Offering solely for lawful purposes. In no event whatsoever shall Customer directly or indirectly transfer, sell, assign, swap, exchange, lease, sublease, license, sublicense, resell or grant indefeasible or other rights of use in or to all or any part of the optical fiber strands as "dark fiber" as such term is commonly understood in the telecommunications industry. A violation of this provision shall be a material default and shall subject Customer to immediate termination.

5.2. Except as expressly set forth herein as part of the access rights included within the Dark Fiber Offering, the lease does not include the right of Customer to own, control, access, maintain, splice, adjust, align, cut, modify or revise the Dark Fiber. Customer will not install any components or equipment to be used with the Offering that damages or interferes with the NA network.

6. MAINTENANCE, RELOCATION AND ADJUSTMENTS

6.1. **Maintenance**. NA or its affiliates shall provide Routine Maintenance and Non-Routine Maintenance as defined in and in accordance with Exhibit A. In the event NA responds to a perceived or actual interruption of Customer's access to the NA network and it is determined that the interruption was not attributed to the failure of NA's network or Customer's failure to identify deficiencies in the Close Out Package within the period described in Section 3.2, NA reserves the right to charge the Customer the Cost of such Non- Routine Maintenance.

6.2. **Relocation.** Customer acknowledges and agrees that, after the Activation Date, NA may be required (i) by any governmental authority under the power of eminent domain or otherwise, (ii) by the grantor or provider of any underlying right, (iii) by any other person having the authority to so require, or (iv) by the occurrence of any Force Majeure Event, to relocate the Segment(s) of the NA network. In such event Customer shall reimburse NA for its proportionate share of the Costs related to such relocation, which shall be the number of Customer fibers divided by the total amount of fibers in use for the particular Segment.

6.3. **Adjustments**. The Monthly Recurring Charge for the Dark Fiber Offering shall be adjusted annually effective December 31st of each year by the greater of (i) four percent (4%) or (ii) the cumulative increase in the U.S. Consumer Price Index, All Urban Consumers (CPI-U), U.S. City Average, published by United States Department of Labor, Bureau of Labor Statistics ("CPI Adjustment") for the preceding 12 month period. In the event the Bureau of Labor Statistics (or any successor organization) no longer publishes the CPI- U, NA may, in its reasonable discretion, designate a replacement index.

DATED this _____day of _____, 20_____.

NA GROUP, LLC

Customer Name

Signature: _____

Name: _____

Title: _____

Signature: _____

Name: _____

Title: _____

Exhibit A

MAINTENANCE & REPAIR

1. **Purpose.** This Exhibit describes the policies and procedures NA utilizes to maintain the Dark Fiber Offering. NA shall ensure that the Dark Fiber Offering is maintained according to the procedures specified herein, through application of commercially reasonable and accepted industry standards, and in accordance with manufacturers' specifications. The purpose and result of maintenance shall be to maintain (in the case of Routine Maintenance) or restore (in the case of Non-Routine Maintenance) the functionality of the Dark Fiber Offering. NA reserves the right to modify these procedures as appropriate to ensure that performance specifications are achieved.

2. **Network Maintenance.** NA performs cable and conduit maintenance and repair, on a twenty-four (24) hour per day, seven (7) days per week basis (24x7). NA utilizes only qualified personnel, office services, vehicles, and all tools and materials required for the safe and proper performance of network monitoring, maintenance procedures and emergency restoration.

3. **Routine Maintenance.** Routine Maintenance is maintenance and repairs that NA deems necessary to ensure proper functioning of the NA network. NA shall perform routine and preventative maintenance and all cable and locate activities as a part of the local "Call Before You Dig" program. Planned network maintenance that does or does not potentially involve the disruption of functionality of the Dark Fiber Offerings is also considered Routine Maintenance. The nature of such a planned Routine Maintenance activity is such that it can be pre- scheduled so as to allow notification to Customer as appropriate. The NA NOC will generally conduct such planned Routine Maintenance outside normal working hours anytime between 12:00 AM to 5:00 AM (local time) seven (7) days a week. NA will provide Customer with fourteen (14) days prior notice of Routine Maintenance that affects availability. All maintenance other than Routine Maintenance as described above shall be deemed to be Non-Routine Maintenance.

4. **Non-Routine & Emergency Maintenance.** For any Non-Routine Maintenance performed to restore functionality of the Dark Fiber Offerings (including, but not limited to, emergency repairs required due to cable cuts, fires, remodeling work or other acts of third parties or Force Majeure events), Customer will first use commercially reasonable efforts to determine that any disruption in the functionality of the Dark Fiber Offering is not on the Customer's side of the Demarcation Point. After verifying that the problem is not on Customer's side of the Demarcation Point, Customer shall open a Trouble Case for Technical Support by contacting NA Customer Support at 1-866-236-2824 (US and Canada) / +4420 3846 4222 (Europe) / 00800 4997 0737 (France) , or ncc@NA.com. Escalation procedures following opening of a Trouble Case can be found at https://tranzact.NA.com/#!/escalation-lists.

5. **Optical Fiber Repair & Restoration.** Following receipt of Customer's notification of a Trouble Case, NA shall reasonably endeavor to respond on-site (if necessary) to the affected location(s) within two (2) hours of the initial Trouble Case, provided NA has all necessary access to the Customer Location(s), including Customer's Premises. In the event of a fiber failure, NA shall reasonably endeavor to begin Dark Fiber Offering restoration within two (2) hours following identification of such failure. NA shall use its best efforts to then restore the functionality of the Dark Fiber Offering no later than six (6) hours following initiation of restoration activities. During an outage NA shall contact Customer on a regular basis, to update the status of restoration. NA is responsible for ensuring that the maintenance personnel are properly trained and otherwise qualified to perform the maintenance on the Offerings. Customer shall procure for NA reasonable 24x7x365 access to Customer's Location(s) for purposes of both Routine and Non-Routine Maintenance.

6. **Mean Time to Repair Credits.**

6.1 The term "**Outage**" shall be defined as a total loss of the ability of a strand of Dark Fiber to pass light for a continuous and uninterrupted period of time; provided, however, that any such interruption will not be deemed an Outage if caused by: (a) any act or omission of the Customer or its End User Customers, or their representatives, contractors, agents, authorized invitees, successors or assigns; (b) the configuration, failure or malfunction of non-NA Facilities; (c) scheduled maintenance or planned enhancements or upgrades to NA's network; (d) NA not having reasonable and uninterrupted access to any premises or site respecting the Outage (the "**Outage Site**"); or (e) a Force Majeure Event. Each of the events described in this Section 6.1shall be deemed an "**Excused Outage**."

6.2 **Outage Credits**. In the event an Outage takes longer than twelve (12) hours to repair following NA's arrival at (and having continuous and uninterrupted access to) the Outage Site, then subject to Section 6.3 below, Customer shall be entitled to an Outage credit equal to one (1) day of pro-rated MRC of the affected Dark Fibers for every full hour greater than twelve (12) hours for which the Outage persists ("Outage Credit"). The pro-rated MRC shall be determined by dividing the number of Dark Fibers in the Order by the total MRC for all Dark Fibers in the Order on the same Segment, then multiplying that number by the total number of Dark Fibers affected by the Outage, then dividing that by the number of days in the month.

6.3 **Credit Process**. In order to receive an Outage Credit, Customer must (a) immediately report the Outage to the NOC and open a trouble ticket and (b) make a written request for the same within thirty (30 days following the end of the month in which the Outage occurred along with providing sufficient detail to permit NA to investigate the Outage Credit request. Upon receipt of Customer's request, NA will investigate the claim under the terms

described in this Customer Schedule. Credits will be granted only if Customer has paid all outstanding invoices by the Due Dates thereof. The issuance of credits pursuant to this Section is NA's sole obligation and, along with termination in accordance with Section 6.4 (Chronic Outage), Customer's sole remedy for any failure or non-performance of Offerings set forth in this Customer Schedule. Outage Credits shall be deducted from the charges payable by Customer hereunder and shall be expressly indicated on the Customer invoice. The maximum Outage Credit in a calendar month shall not exceed 50% of the MRC for the affected Dark Fiber.

6.4 Chronic Outage: Customer may terminate the affected Segment without incurring early termination charges if: Customer experiences three (3) or more related Outages on the same Segment, each with an Outage Duration lasting more than one (1) hour in any thirty (30) day period. In order to exercise a right to terminate under this Section, Customer must notify NA of its intent to terminate the affected Offering in writing within thirty (30) days after the event giving rise to a right of termination. Customer shall be deemed to have waived its right to terminate under this Section if it fails to provide the requisite notice within such thirty (30) day period. NA reserves the right to refuse the foregoing termination right if Customer has any past-due balances. Notwithstanding the foregoing, Customer may not terminate the affected Dark Fiber Offering under this Section if NA is able to cure (to Customer's reasonable satisfaction) the issue(s) giving rise to such Outages under this provision within thirty (30) calendar days of the chronic outage triggering event.

Exhibit B

NA-PROVIDED DARK FIBER SPECIFICATION & TESTING ACCEPTANCE OBJECTIVES

Unless otherwise defined herein, capitalized terms shall have the meaning given them in NA's standard Dark Fiber Schedule ("Schedule") in use at the time of testing.

Pursuant to Section 3.2 of the Schedule, NA will perform testing on the NA-provided Dark Fiber Offering as described herein, on a per Fiber Span (defined below) basis and provide test results to the Customer at the e-mail address provided by Customer ("Close Out Package"). In the event the Dark Fiber is OOS (defined below), Customer shall accept or reject the Dark Fiber as set forth in Section 3.2 of the Schedule.

1.0 DEFINITIONS

Connector – Dark Fiber Strand polished to a flat surface and housed within an adapter to enable the transfer of light to another connection. All Connectors on Dark Fiber are created in a manufacturer lab per industry standard.

Mated Connector – Two Dark Fiber Connectors linking together Dark Fibers, generally at a cross-connect at a termination panel.

In-Line Connector – Connectors used to link Segments between Demarcation Points. In-Line Connectors are always mated with another In- Line Connector.

Front End Connector (FEC) – Connector at the Demarcation Point, marking the beginning or end of the Segment.

Dark Fiber Strand or Strand - a single optic fiber.

Dead Zone – A portion of the Dark Fiber that cannot be accurately measured without the use of a Launch Reel.

Fiber Span - A Segment of one or many Dark Fiber optic strands that are terminated to a Connector on each end.

Fusion Splice – The act of using a fusion splice machine to melt two ends of Dark Fiber for purposes of joining together.

Launch Reel – Spool of fiber used to accurately measure the insertion loss at the Front End Connector, eliminating the Dead Zone.

OOS - Any event not meeting the criteria in Section 4.2 or 4.4 will be considered out of specification ("OOS").

OTDR (Optical Time Domain Reflectometer) – Instrument used to measure a Dark Fiber path by injecting pulses of lights at a specific timed rate within a specific range. The pulses are then analyzed by the OTDR upon returning to the point of origin by means of reflection due to characteristics of the Dark Fiber.

Pulse Width – Length of time a single pulse of light enters the fiber optic glass.

Range – Distance that the OTDR will perform measurement of a Span.

Power Meter – Instrument used to measure the loss of light that occurs on a given Span.

Pigtail – The opposing end of Dark Fiber glass that has been lab polished in a Connector.

Trace - Test performed on a single Dark Fiber Strand with certain parameters. Each Trace represents a single test that is performed on a Dark Fiber Strand from a single direction.

2.0 FIBER PERFORMANCE.

NA will endeavor to meet the following ITU Specifications for Dark Fiber:

Table 1 –Fiber specification limits

Parameter	ITU-T G652 & G.657	ITU-T G.655
Dispersion @1550nm [ps/(nm*km)]	≤18.5	≥2.0 to ≤6.0
Typical Attenuation @1550 (dB/km)	≥0.18 to ≤0.25	≥0.19 – ≤0.25
Zero Dispersion Wavelength (nm)	≥1300 to ≤1324	≥1450 to ≤1520
Mode Field Diameter @ 1550nm (µm)	≥9.3 to ≤10.9	≥9.2 to ≤10.0
Polarization Mode Dispersion (ps/√km)	≤0.2	≤0.1

Dark Fiber types may differ across a Fiber Span. In the event that non-NA Facilities, including cross-connects, campus and entrance cables, riser cables and third-party outside plant are required to deliver the Offerings, NA will use commercially reasonable efforts to meet the Specifications set forth in this Exhibit B, but failure of non-NA Facilities to meet the Specifications in this Exhibit B is not a violation.

3.0 SPAN LOSS REQUIREMENTS

Each Strand within a Span will be measured Bi-Directionally using a recently calibrated and industry-accepted light (laser) source and Power Meter Units in order to measure Span Loss.

3.1. ATTENUATION PER FIBER STRAND FORMULA

The applicable formula to be applied will depend on distance - See Table 2 below.

*1550 Wavelength = [Span Length (km) * 0.25dB] + [Number of Splices * 0.15dB] + [Number of Mated Connectors * 0.5 dB] + [2dB]*
*1310 Wavelength = [Span Length (km) * 0.40dB] + [Number of Splices * 0.25dB] + [Number of Mated Connectors * 0.5 dB] + [2dB]*

**A 2db buffer is included to allow for fiber degradation and repairs over the life of the Dark Fiber.*

4.0 OTDR TESTING

Each Strand will be tested bi-directionally using a recently calibrated OTDR. NA will use the appropriate settings as per the OTDR manufacturer's recommendation depending on dark fiber type and segment distance. Bi-directional OTDR Traces will be recorded using the same setting on the OTDR.

4.1. FIBER SPAN TRACES

For each Fiber Strand delivered to the Customer, NA will perform Fiber Span Traces and Front End Connection ("FEC") Traces.

Fiber Span Traces will be measured bi-directional and used to ensure all splices and In-line connectors are visible and within spec and will be measured in the following wavelengths,

depending on Distance.

1625nm testing will only be performed for Long Haul Dark Fiber services and Fiber Characterization testing.

Table 2 – Wavelength Test Parameters

OTDR Testing Requirements by Span Length	
< 50KM	***> 50KM***
1310 nm	1550 nm
1550 nm	1625 nm

4.2. FIBER SPAN LOSS THRESHOLDS

4.2.1. Splice Loss

All splices will be performed by Fusion Splicing. The target allowance of a single splice event is 0.30 dB bi-directionally at 1550nm for homogeneous core types. The target allowance of a single splice event is 0.40 dB bi-directionally at 1550nm for heterogeneous core types.

In the event of an OOS, NA has the right to waive the target allowance provided the average splice loss on the entire Span does not exceed 0.15 dB bi-directionally at 1550nm. The Span will be considered to have met the splice loss criteria.

4.2.2. CONNECTOR LOSS

All In-line Connectors will be factory polished (hand polish is not acceptable). The maximum allowance of a Connector with a Pigtail Splice will not exceed a combined **0.50 dB** loss. Any In-line jumper (cross-connect) including the patch cord and two Connectors will not exceed a combined **1.00 dB** loss.

4.2.3. REFLECTANCE

The maximum allowance of any FEC or In-line Connector will not exceed a reflectance of **-45.0 dB**.

4.3. FEC TRACES

FEC traces will be performed unidirectional at each side of the Strand (unless NA is handing off the Dark Fiber in the field via stub cable) to ensure any connectors within the first 500 feet are measurable and outside of the Dead Zone. FEC traces will be taken at low pulse width and range using a 1km Launch Reel between the OTDR and connector.

4.4. FEC LOSS THRESHOLDS

4.4.1. Connector Loss

Maximum allowance of a Connector with Pigtail Splice will not exceed a combined **0.50 dB** loss.

5.0 FIBER CHARACTERIZATION

Confidential and Proprietary (6.21.23)

August 20th, 2024

City of Flagstaff Arizona

RE: Design Services for RSOQ 2023-64

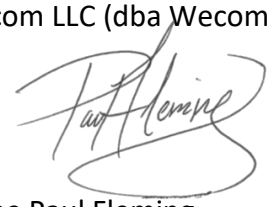
Dear City of Flagstaff Arizona

Quote for design services for the municipal fiber network RSOQ 2023-64

- Hourly Rate: $100.00 per hour
- Not to exceed $1,000 in total cost
- All design fees will be incorporated into the build / construction contract when finalized.

Sincerely,

Wecom LLC (dba Wecom Fiber)

By: 

Name Paul Fleming

Title: CEO

WECOM LLC
FIBER NETWORK

PROJECT NUMBER: XXXX

RSOQ NO.: 2024-125

DESIGN-BUILD SERVICES CONTRACT

Mayor
Becky Daggett

Council

Austin Aslan
Deborah Harris
Khara House
Lori Matthews
Jim McCarthy
Miranda Sweet

City Manager
Greg Clifton

IT Director
CJ Perry

City Engineer
Paul Mood

Public Works Director
Scott Overton

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FIBER NETWORK

DESIGN-BUILD CONTRACT
PROJECT NO. 2024-125

CONTRACT NO. 2024-125

THIS AGREEMENT, made and entered by and between the CITY OF FLAGSTAFF, an Arizona municipal corporation, hereinafter designated the "CITY" and Wecom LLC, a Delaware limited liability company, hereinafter designated the "DESIGN-BUILDER."

RECITALS

A. The City has authority to enter into this Contract pursuant to the Flagstaff City Charter, Article VIII, Sec. 2;

B. In January 2024 the City issued a Request for Statement of Qualifications ("RSOQ), Solicitation No. 2023-64/2024-125 for the design and construction of a Fiber Network for City use along with a network throughout the City for the benefit of the community, and offering $2 million in funding, use of excess capacity in existing City conduit, and other like kind contributions in exchange;

C. In March 2024, Wecom LLC submitted its response to the solicitation, consisting of its qualifications and a proposal, and the City has determined its response is the most advantageous for the City;

D. The parties desire to enter into this Contract with the understanding that the design of the Fiber Network for City use shall be completed first, and that the terms and conditions related to construction of the Fiber Network and service throughout the community are subject to further negotiation and must be approved as amendments to this Contract (Exhibit A and Exhibit B shall be updated as the Project moves forward).

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and the Design-Builder as follows:

ARTICLE 1 - DEFINITIONS

"Addenda" means 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" or "Contract" means this written document signed by the City and Design-Builder covering the design and construction of the Project, and including other documents itemized and referenced in or attached to and made part of this Contract. This term shall also include the RSOQ, all Attachments and Exhibits, and all Appendices.

"Change Order" (Amendment) means a written instrument issued after execution of this Agreement signed by City and Design-Builder, stating their agreement upon all of the following: the scope of the change in the Work; the amount of the adjustment to the Contract Price; the extent of the adjustment to the Contract Time(s) or modifications of other contract terms.

"City" (Owner) means the City of Flagstaff, a municipal corporation, with whom Design-Builder has entered into this Contract and for whom the services are to be provided pursuant to said Contract. Regulatory

activities handled by the City of Flagstaff Community Development Department, Utilities Department or any other City Department are not subject to the responsibilities of the City under this Agreement.

"City's Representative" means the person designated in section 8.4.1.2.

"City's Senior Representative" means the person designated in section 8.4.1.1.

"Commissioning" means the process prescribed in section 2.21 for achieving, validating and documenting the performance of the total Project and its systems to meet the design needs and requirements of the City.

"Construction Documents" means the plans, specifications and drawings prepared by the Design-Build team and include documents as prescribed by section 2.8.

"Construction Drawings" means the detailed drawings, corrected for permit requirements, approved as part of the Construction Documents.

"Construction Fee" means the Design-Builder's administrative costs, home office overhead, and profit.

"Contract Documents" means the following items and documents in descending order of precedence executed by the City and the Design-Builder: (i) all written modifications, amendments and Change Orders (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) Design-Builder's GMP proposal, and (v) Design-Builder's Statement of Qualifications.

"Contract Price" means the amount or amounts set forth in Article 5, subject to adjustment in accordance with this Agreement.

"Contract Time" means the period of time, as set forth in Article 4, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

"Cost of the Work" means the direct costs necessarily incurred by the Design-Builder 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 (if not paid for by City), materials testing, and related items. The Cost of the Work shall not include the Design-Builder's Construction Fee, General Conditions Costs, or taxes.

"Critical Path" means the sequence of activities from the start of the Work to the Substantial Completion of the Project. Any delay in the completion of these activities will extend the Substantial Completion date.

"Day(s)" means calendar days unless otherwise specifically noted in the Contract Documents.

"Deliverables" means the work products prepared by the Design-Builder in performing the scope of work described in this Contract. Some of the major Deliverables to be prepared and provided by the Design-Builder during the design phase may include but are not limited to: Construction Management Plan, Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, cost estimates, construction market surveys, cash flow projections, GMP proposals, Subcontractor procurement plan, Statement of Proposed MBE/WBE Utilization as may be required or appropriate, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Contract or required by the Project Team.

"Design Services" means all professional services to be performed or procured by the Design-Builder to provide required Project design under this Agreement and any subsequent amendments.

"Design-Builder" means the firm, corporation, or other approved legal entity with whom the City has entered into this Contract to provide services as detailed in this Contract.

"Design-Builder's Contingency" means a fund to cover cost growth during the Project used at the discretion of the Design-Builder, usually for costs that result from Project circumstances. The amount of the Design-Builder's Contingency will be negotiated as a separate line item in each GMP package. Use and management of the Design-Builder's Contingency is described in sections 5.3.3.4 and 5.3.3.6.

"Design-Builder's Senior Representative" means the person designated in section 8.4.2.1.

"Design-Builder's Representative" means the person designated in section 8.4.2.2.

"Differing Site Conditions" means concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ or are not reasonably inferable 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" means the completion of the Project as prescribed in section 4.4.

"Float" means 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" includes, but is not limited to the following types of costs for the Design-Builder during the construction phase: (i) payroll costs for project manager or construction manager 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) administrative office personnel; (vi) costs of offices and temporary facilities set up solely for this Project including office materials, office supplies, office equipment, and minor expenses; (vii) utilities, fuel, sanitary facilities and telephone services at the Site; (viii) costs of liability and other applicable insurance premiums not included in labor burdens for direct labor costs; (ix) costs of bond premiums; and (x) cost of consultants not in the direct employ of the Design-Builder or Subcontractors.

"Guaranteed Maximum Price" or "GMP" means the sum of the cost for design, permitting and maximum cost of the construction including the Design-Builder's Construction Fee, General Conditions Costs; sales tax, and Design-Builders Contingency.

"GMP Plans and Specifications" means the plans and specifications upon which the Guaranteed Maximum Price proposal is based.

"Legal Requirements" means 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, Site or Work.

"Notice to Proceed" or "NTP" means the directive issued by the City authorizing the Design-Builder to start Work.

"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. Use and management of the Owner's Contingency is described in section 5.3.4.

"Payment Request" means the City form used by the Design-Builder to request payment for Work in accordance with Article 7.

"Performance Period" means the period of time allotted in the Contract Documents to complete the construction comprised within a GMP. The Performance Period shall be stated with each GMP and shown on the Project Schedule.

"Product Data" means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Design-Builder to illustrate materials or equipment for some portion of the construction.

"Project" means the Work to be completed in the execution of this Agreement and as amended and as described in the Recital above and in Exhibit A.

"Project Schedule" means a schedule as prescribed in section 2.4.

"Record Documents" means the documents created pursuant to section 2.19.

"Recovery Schedule" means a schedule created pursuant to section 2.4 generally, and section 2.4.5.9 specifically, which clearly and realistically identifies adjustments proposed to bring the Project back to the initial project Substantial Completion date.

"Samples" means physical examples which illustrate materials, equipment or workmanship and establish standards by which the construction will be judged.

"Scheduled Substantial Completion Date" means the date on which the Work, or an agreed upon portion of the Work, is anticipated to be sufficiently complete so that City can occupy and use the Project or a portion thereof for its intended purposes.

"Schedule of Values (SOV)", means the Document specified in the construction phase, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price. The SOV may or may not be output from the Project Schedule depending on if the Project Schedule is cost-loaded or not.

"Shop Drawings" means drawings, diagrams, schedules and other data specially prepared for the construction by the Design-Builder or a Subcontractor, Sub-subcontractor, manufacturer, Supplier or distributor to illustrate some portion of the construction.

"Site" means the land or premises on which the Project is located.

"Subcontractor" or "Subconsultant*"* means an individual or firm having a direct contract with the Design-Builder or any other individual or firm having a contract with the aforesaid contractors at any tier, who undertakes to perform a part of the Work for which the Design-Builder is responsible.

"Substantial Completion" means the established date when the Work or designated portion thereof is sufficiently complete, in accordance with the Contract Documents so that the City may occupy the Work, or designated portion thereof, for the use for which it is intended. This may include, but is not limited to: (i) Approval by the City or State Fire Marshall and/or other state or local authorities having jurisdiction over the Work or a portion thereof (Certificate of Occupancy); (ii) all systems in place, functional, and displayed to, and accepted by, the City or it's representative; (iii) City operation and maintenance training complete; (iv) HVAC test and balance completed with reports provided to the Design Professional for review; (v) Operational and Maintenance manuals and final Project Record Documents delivered to the City or Design Professional for review, (vi) landscaping and site work complete; and (vii) final cleaning complete.

"Supplier" means a manufacturer, fabricator, supplier, distributor, material manager or vendor having a direct contract with Design-Builder or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by Design-Builder or any Subcontractor.

"Work" means all design, construction, and Commissioning services, including procuring and furnishing materials, equipment, services, and labor reasonably inferable from the Contract Documents.

ARTICLE 2 – DESIGN-BUILDER'S SERVICES AND RESPONSIBILITIES

2.0 The following sections prescribe the services and responsibilities required for the proper execution

and completion of the Work by the Design-Builder. They are not organized in any specific order and may pertain to all phases of the Work.

2.1 General Services

2.1.1 Design-Builder shall, through personnel employed by Design-Builder, or procured from qualified Subconsultants or Subcontractors, perform all Work, and provide all material, equipment, tools and labor necessary to complete the Work described in and reasonably inferable from this Agreement.

2.1.1.1 This Agreement shall be executed and signed by City and Design-Builder, stating their agreement to proceed with design in accordance with all codes, standards and requirements as adopted by ordinance or as may be referenced in Exhibit B – Scope of Services.

2.1.1.2 An amendment to this Agreement may be executed and signed by City and Design-Builder, stating their agreement to a GMP, or multiple GMP's, and to proceed with the completion of the design and construction of the Project.

2.1.2 The City hereby acknowledges its acceptance of the key personnel of the design-build team as submitted by the Design-Builder in its statement of qualifications or as amended subsequently during the selection process. At any time hereafter that the Design-Builder desires to reassign or change key personnel while performing under this Agreement, the Design-Builder shall submit a request to reassign or change key personnel and the qualifications of the proposed new key personnel to the City for prior approval.

2.1.3 The Design-Builder will maintain an adequate and competent staff of qualified persons, as may be determined by the City, throughout the performance of this Agreement. If the City objects, with reasonable cause, to any of the Design-Builder's design professionals, the Design-Builder shall take prompt corrective action acceptable to the City and, if required, remove such persons from the Project and replace with new design professionals agreed to by the City.

2.1.4 Design-Builder's Representative shall be reasonably available to City and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with City and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced as described in section 2.1.2.

2.1.5 The parties will meet within seven (7) Days after execution of this Agreement to discuss issues affecting the administration of the Work, the Project Schedule, and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under this Agreement. The Notice to Proceed (NTP) date prescribed in section 4.1 will be established.

2.2 Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed design consultants, the necessary Design Services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. The Design-Builder's design professionals shall seal with an Arizona registered professional seal all plans, works, and Deliverables prepared by them for this Agreement as required by state law.

2.2.2 The Design-Builder understands and agrees that the City's Senior City Representative or City Representative, shall be the sole contacts for administering this Agreement. The Design-Builder is not precluded from discussing the Project, or its requirements with the tenants or other entities which will ultimately use the facility, but all specific directions to or requests of the Design-Builder must be authorized by the Senior City Representative or the City Representative.

2.3 Standard of Care for Design Professional Services and Corrections

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the parties agree upon specific performance standards for any aspect of the services, which standards are to be set forth in an exhibit to this Agreement entitled "Performance Standard Requirements," the design professional services shall be performed to achieve such standards.

2.3.2 The Design-Builder shall be responsible for the completeness and accuracy of the plans, specifications, supporting data, and other work prepared or compiled under its obligation for this Project and shall correct, at its expense, all errors, omissions and negligent acts therein which may be discovered. Correction of errors, omissions and negligent acts discovered on architectural or engineering plans and specifications shall be the responsibility of the Design-Builder. The cost of the design necessary to correct those errors attributable to the Design-Builder shall not be reimbursable costs to the Design-Builder. Any damage incurred by the City as a result of additional construction cost caused by such errors, omissions or negligent acts shall not be reimbursed to the Design-Builder to the extent that such errors, omissions and negligent acts fall below the standard of care and skill that a registered professional in Arizona would exercise under similar conditions. The fact that the City has accepted or approved the Design-Builder's product shall in no way relieve the Design-Builder of any of its responsibilities.

2.4 Project Schedule

2.4.1 The Project Schedule shall be established within seven (7) Days of the NTP and, updated and maintained throughout the Work. An updated Project Schedule shall be part of any GMP amendment.

2.4.2 The Project Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents.

2.4.3 An updated Project Schedule shall be submitted monthly to the City five (5) working Days prior to the Design-Builder's monthly Payment Request as prescribed in Article 7 of this Agreement.

2.4.3.1 Design-Builder shall provide City with a monthly status report with each Project Schedule detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, and (iii) other items require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price(s) and within the Contract Time(s).

2.4.3.2 With each Project Schedule submitted, the Design-Builder shall include a transmittal letter including the following.

- Description of problem tasks (referenced to field instructions, requests for information (RFIs), change order or claim numbers) as appropriate.
- Current and anticipated delays not resolved by approved change order, including:
  - Cause of the delay
  - Corrective action and schedule adjustments to correct the delay
  - Known or potential impact of the delay on other activities, milestones, and the date of Substantial Completion
  - Changes in construction sequence
- Pending items and status thereof including but not limited to:
  - Pending change orders
  - Time extension requests
  - Other items
- Substantial Completion date status:
  - If ahead of schedule, the number of Days ahead
  - If behind schedule, the number of Days behind
- Other Project or scheduling concerns

2.4.1 City's review of and response to the Project Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not relieve the Design-Builder from compliance with the requirements of the Contract Documents or be construed as relieving the Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.4.1.1 Upon the City's request, the Design-Builder shall participate in the review of the Design-Builder's Project Schedule submissions. The City may request the participation of Subconsultants and/or Subcontractors in these reviews, as determined necessary by the City.

2.4.5 The Project Schedule shall include a Critical Path Method (CPM) diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the path of critical activities.

2.4.5.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates, and total Float times for all activities except critical activities. The CMP diagram shall be presented in a time scaled graphical format for the Project as a whole.

2.4.5.2 The CPM diagram schedule shall indicate all relationships between activities.

2.4.5.3 The activities making up the schedule shall be of 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.

2.4.5.4 The CPM diagram construction schedule shall be based upon activities, which would coincide with the Schedule of Values.

2.4.5.5 The CPM diagram schedule shall show all submittals associated with each work activity and the review time for each submittal.

2.4.5.6 The schedule shall show milestones, including milestones for City-furnished information, and shall include activities for City-furnished equipment and furniture when those activities are interrelated with the Design-Builder's activities.

2.4.5.7 The schedule shall include a Critical Path activity that reflects anticipated weather delay during the performance of the Contract. 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.

2.4.5.8 The Project Schedule shall consider the City's occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.

2.4.5.9 In the event of significant delays, lags or changes in the planned sequence of activities, as determined by Owner, Contractor shall provide to Owner a Recovery Schedule indicating proposed rescheduling of activities to achieve completion of the Project by the Scheduled Substantial Completion Date.

2.4.6 Float time shall be as prescribed below:

2.4.6.1 The total Float within the overall schedule, is not for the exclusive use of either the City or the Design-Builder, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet contract milestones and the Project completion date.

2.4.6.2 The Design-Builder 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 will be granted nor delay damages paid until a delay occurs which extends the Work

beyond the Substantial Completion date, and then only if such extensions or damages are shown to be justified under the Contract Documents.

2.4.6.3 Since Float time within the construction schedule is jointly owned, it is acknowledged that City-caused delays on the Project may be offset by City-caused time savings (i.e., Critical Path submittals returned in less time than allowed by the Contract, approval of substitution requests and credit changes which result in a savings of time to the Design-Builder, etc.). In such an event, the Design-Builder shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

2.5 Cost Estimates

2.5.1 The Project budget available for the Work will be communicated to the Design-Builder through separate correspondence. The Design-Builder is responsible for the delivery of the Project covered by the Contract Documents within the Project budget, which is a fixed fee.

2.5.2 With each Project Schedule submittal pursuant section 2.4.3, the Design-Builder shall provide a detailed cost estimate and a written review of the documents ,to enable City understanding of costs and progress payments.

2.5.2.1 If any estimate submitted to the City exceeds previously accepted estimates or the City's Project budget, the Design-Builder shall make at its sole expense appropriate recommendations on methods and materials to the City that it believes will bring the Project back into the Project budget.

2.5.2.2 In between these milestone estimates, the Design-Builder shall periodically provide a tracking report which identifies the upward or downward movements of costs due to value engineering or scope changes. It shall be the responsibility of the Design-Builder to keep the City informed as to the major trend changes in costs relative to the City's budget.

2.5.3 If requested by the City, the Design-Builder shall prepare a preliminary "cash flow" projection based upon historical records of similar type projects to assist the City in the financing process.

2.6 Not Used

2.7 Construction Management Plan

2.7.1 The Design-Builder will prepare a Construction Management Plan (CMP).

2.7.2 The CMP shall include:

- Project milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project,
- Investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities,
- Alternate strategies for fast-tracking and/or phasing the construction,
- Goal compliance strategy,
- The number of separate sub-agreements to be awarded to Subcontractors and Suppliers for the Project construction,
- Permitting strategy,
- Safety and training programs,
- Construction quality control,
- Commissioning program,
- Cost estimate and basis of the model, and
- Matrix summarizing each Project Team member's responsibilities and roles.

2.7.3 The Design-Builder shall add detail to its previous version of the CMP to keep it current throughout the design phase, so that the CMP is ready for implementation at the start of construction.

2.8 Design Services

2.8.1 Design-Builder shall provide all interim design submissions and Deliverables as prescribed in the Performance Standards Requirements provided by the City, and as shown on the Project Schedule.

2.8.1.1 Within seven (7) Days after a scheduled submission, the Design-Builder and City shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or previously submitted design submissions.

2.8.1.2 The Design-Builder, with each required submittal, shall submit and distribute ten, or as otherwise identified in the Performance Standards Requirements, hard copy sets of plans and specifications.

2.8.1.3 Minutes of the meetings will be maintained by Design-Builder and provided within five Days following the design review meeting to all attendees for review.

2.8.1.4 City shall review and approve the interim design submissions in a time that is consistent with the turnaround times set forth in Design-Builder's Owner approved Project Schedule.

2.8.1.5 Design-Builder shall not cause the design to proceed until City approves the interim design submissions as prescribed in this section. If the Design-Builder allows the design to proceed without City approval, the cost of any resultant redesign is not a reimbursable cost.

2.8.1.6 City's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Construction Documents compatible with the requirements of the Project. Neither City's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability to the City.

2.8.2 The Project design must meet all applicable (i) Maricopa Association of Governments (MAG) Uniform Standard Technical Specifications and Uniform Standard Details and Drawings, latest revision; (ii) the City of Flagstaff Supplements and Amendments to the latest revision of the MAG Uniform Standard Technical Specifications and Uniform Details and Drawings; (iii) the City of Flagstaff Engineering Design and Construction Standards and Specifications, latest edition, (iv) all City building standards; and (v) shall include any general provisions provided by the City.

2.8.3 The Project design criteria and specifications shall be in accordance with all codes, standards and requirements as adopted by ordinance or as may be referenced in Exhibit C – Performance Standards Requirements. Variances from the standards and guidelines must be identified in writing by the Design-Builder and approved by the City. The Design Builder shall identify conflicts between the design standards and guidelines and the requirements in section 2.8.2 above or Legal Requirements and shall obtain concurrence with resolution of the conflict. The design standards and guidelines or approval of variances or resolution of conflicts shall not be deemed to transfer any design liability to the City.

2.8.4 The Design-Builder shall not specify any construction materials known to be hazardous or potentially hazardous, including asbestos, lead or any derivative thereof unless specifically approved in writing by the City.

2.8.5 The Design-Builder shall coordinate with private, public and City utilities (i.e., Information Technology Department, Water Services Department) regarding standard utility issues and incorporate pertinent information in the plans.

2.8.6 The Design-Builder shall be responsible for scheduling, submitting to, obtaining approval and retrieving all required Construction Documents from the various required reviewing agencies.

2.8.7 Until such time as a GMP amendment has been executed, Design-Builder when requested by the City, will attend, make presentations, and participate as may be appropriate in public agency and/or community meetings relative to the Project. Design-Builder will provide drawings, schedule

diagrams, budget charts and other materials describing the Project, when their use is required or appropriate in any such meetings.

2.8.8 Design-Builder shall submit to the City, Construction Documents setting forth in detail drawings and specifications describing the requirements for construction.

2.8.8.1 The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting.

2.8.8.2 The Design-Builder shall provide the drawings in AutoCAD format compatible with City of Flagstaff Community Development Department CADD technology using City layering standards.

2.8.8.3 The drawing format will be a 24" x 36" sheet size unless otherwise authorized in writing by the City.

2.8.8.4 The parties shall have a design review meeting to discuss, and City shall review and approve, the Construction Documents in accordance with the procedures set forth this section.

2.8.8.5 Prior to commencement of construction, Design-Builder shall submit to the City the following.
2.8.8.6 -Builder shall submit to the City the following.

- One set of approved Construction Drawings in AutoCAD format on electronic media (CD-ROM);
- Five print sets of approved Construction Drawings and five half-size sets on electronic media; and
- Five sets of specifications on electronic media.

2.8.9 To the extent not prohibited by Legal Requirements, Design-Builder may arrange for interim design submissions and Construction Documents for a portion of the construction to permit construction to proceed on that portion prior to completion of the Construction Documents for the entire construction.

2.9 Not Used

2.10 Government Approvals and Permits

2.10.1 Design-Builder shall obtain all necessary permits, approvals, and licenses required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project. **The Design-Builder is specifically reminded of the need to obtain the necessary environmental permits and/or file the necessary environmental notices.**

2.10.2 Copies of these permits and notices must be provided to the City'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 City's Representative. This provision does not constitute an assumption by the City of any obligation of any kind for violation of said permit or notice requirements.

2.10.3 City shall be responsible for City of Flagstaff review and permit(s) fees for building and demolition permits. City will also pay review fees for grading and drainage, water, sewer, and landscaping. City shall also pay for utility fees for permanent services.

2.10.4 Design-Builder shall be responsible for all other permits and review fees not specifically listed in section 2.10.3 above.

2.10.5 Design-Builder is responsible for the cost of water meter(s), water and sewer taps and fire lines and taps, and all utility fees including incremental billings until Substantial Completion. Arrangements for construction water and associated fees are the Design-Builder's responsibility.

2.11 Subcontractor Selection

2.11.1 Subcontractors shall be selected by a combination of qualifications and price derived through competitive selection (such competitive selection process may have occurred prior to the effective date of this Contract and may take into account regional work efficiencies). Design-Builder shall provide documentation to the City Procurement Director demonstrate that it has completed a competitive selection process.

2.11.1.1 Design Builder shall employ only Subcontractors who are duly licensed in Arizona and qualified to perform the Work per the requirements of the Contract Documents.

2.11.2 The Design-Builder will submit the names of qualified Subcontractors for approval by the City. Without prior approval by the City, no change in the City-approved Subcontractors will be allowed.

2.11.2.1 Reserved.

2.11.2.2 If the City objects to any Subcontractor the Design-Builder will nominate a substitute Subcontractor.

2.11.2.3 The Design-Builder will distribute drawings and specifications, and when appropriate, conduct a prebid conference with Subcontractors.

2.11.2.4 Reserved.

2.11.3 Reserved.

2.11.4 The selected Subcontractors will provide a Schedule of Values, which will be used to create the overall Project Schedule of Values.

2.12 General Construction Services

2.12.1 Unless otherwise provided in the Contract Documents to be the responsibility of City or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, taxes, inspection, testing, start-up, material, equipment, machinery, arrangements for temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.12.2 The Design-Builder shall completely and totally construct the Project and install the material therein for the City, in a good and workmanlike and substantial manner. The Work shall be to the satisfaction of the City and strictly pursuant to and in conformity with the Contract Documents as amended.

2.12.3 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.13 Pre-construction Conference

2.13.1 After approval of Construction Documents and prior to the commencement of any construction, the City's Representative will schedule a pre-construction conference.

2.13.2 The purpose of this conference is to establish a working relationship between the Design-Builder, utility firms, and various City agencies. The agenda will include critical elements of the construction schedule, submittal schedule, cost breakdown of major lump sum items, the level of Record Project Documents required, Payment Requests and processing, coordination with the involved utility firms, and emergency telephone numbers for all representatives involved in the course of construction.

2.13.3 The construction start date will be concurred with. After the meeting a Notice to Proceed letter will be issued confirming the construction start date, duration of the construction and if applicable the Substantial Completion date. If a Substantial Completion date is established the conditions of the

Substantial Completion will be listed.

2.13.4 The Design-Builder shall provide a Schedule of Values based on the categories used in the buy out of the construction, but not greater than the approved GMP, and identifying the construction contingency. The Schedule of Values will subdivide the construction into all items comprising the construction.

2.13.5 Minimum attendance by the Design-Builder shall be the Design-Builder's Representative who is authorized to execute and sign documents on behalf of the firm, the Design-Builder's Design and Contractor Representatives, the job superintendent, and the Design-Builder's safety officer.

2.14 Supervision of Construction

2.14.1 Design-Builder or the Design-Builder's Representative (which may be a high-level employee of the Subcontractor) shall at all times be present at the Site when construction activities are taking place.

2.14.1.1 All elements of the construction, such as concrete work, pipe work, etc., shall be under the direct supervision of a foreman or his designated representative on the Site, who shall have the authority to take actions required to properly carry out that particular element of the construction.

2.14.1.2 In the event of noncompliance of this section 2.14, the City may require the Design-Builder to stop or suspend the construction in whole or in part. Such suspension, due to the Design-Builder's noncompliance shall not be considered a basis for an increase in the Contract Price or extension of Contract Time.

2.14.2 Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is the Design-Builder's responsibility to ensure the Subcontractor employed for such Work is approved.

2.14.3 During construction the City may reasonably object to any Subcontractor and the Subcontractor shall be removed from the construction, provided that the Contract Price and/or Contract Time(s) may be adjusted to the extent that City's decision impacts Design-Builder's cost and/or time of performance.

2.14.4 Any person employed by the Design-Builder or any Subcontractor who, in the opinion of the City, does not perform his work in a proper, skillful and safe manner or is intemperate or disorderly shall, at the written request of the City, be removed from the construction by Design-Builder or Subcontractor employing such person, and shall not be employed again in any portion of construction without the written approval of the City. The Design-Builder or Subcontractor shall keep the City harmless from damages or claims, which may occur in the enforcement of this section.

2.14.5 Design-Builder shall be solely responsible to City 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 City and any Subcontractor, including but not limited to any third-party beneficiary rights.

2.14.6 Design-Builder shall coordinate the activities of all Subcontractors. If City performs other work on the Project or at the Site with separate contractors under City's control, Design-Builder 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.

2.15 Control of Construction Site

2.15.1 Throughout all phases of construction, including suspension of Work, Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the construction, or a portion of the construction, Design-Builder

shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the construction or applicable portions thereof to permit City to occupy the Project or a portion of the Project for its intended use.

2.15.2 Design-Builder 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 City and in accordance with the requirements of the Arizona Department of Environmental Quality (ADEQ).

2.15.3 Design-Builder shall maintain ADA and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA 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. Design-Builder shall be responsible for the coordination of all Work to minimize disruption to building occupants and facilities.

2.15.4 In the event of abnormal weather conditions, such as windstorms, rainstorms, snowstorms, etc., the Design-Builder shall immediately inspect the work site and take all necessary actions to insure public access and safety are maintained, and that the Work in place and site conditions are protected from damage.

2.15.5 Only materials and equipment, which are to be used directly in the construction, shall be brought to and stored on the Site by the Design-Builder. When equipment is no longer required for the construction, 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 the Design-Builder.

2.16 Shop Drawings, Product Data and Samples

2.16.1 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 construction for which submittals are required the way the Design-Builder proposes to conform to the information given and the design concept expressed in the Construction Documents.

2.16.2 The Design-Builder shall review, approve, verify, and submit to the City three copies of each Shop Drawing, Product Data, Sample, and similar submittal required by the Construction Documents in accordance with the approved construction schedule as prescribed in section 4.2 as to cause no delay in the Work or in the activities of the City or of separate contractors.

2.16.3 By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar submittals, the Design-Builder represents that the Design-Builder has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the construction and of the Construction Documents.

2.16.4 The Design-Builder shall not be relieved of responsibility for deviations from requirements of the Contract Documents unless the Design-Builder has specifically informed the City in writing of such deviation at the time of submittal and the City has given written approval to the specific deviation.

2.16.5 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the City shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

2.17 Quality Control, Testing and Inspection

2.17.1 All materials used in the construction shall be new and unused, unless otherwise agreed to in writing by the parties, and shall meet all quality requirements of the Contract Documents.

2.17.2 All construction materials to be used on the construction or incorporated into the construction,

equipment, plant, tools, appliances or methods to be used in the construction may be subject to the inspection and approval or rejection of the City. Any material rejected by the City shall be removed immediately and replaced in an acceptable manner.

2.17.3 The procedures and methods used to sample and test material will be determined by the City. Unless otherwise specified, samples and tests shall be made in accordance with (i) Maricopa Association of Governments (MAG) Uniform Standard Technical Specifications and Uniform Standard Details and Drawings, latest revision, (ii) the City of Flagstaff Supplements and Amendments to the latest revision of the MAG Uniform Standard Technical Specifications and Uniform Details and Drawings, (iii) City of Flagstaff Engineering Design and Construction Standards and Specifications latest revision, and (iv) ASHTO and ASTM standards, latest revisions.

2.17.4 City may require independent laboratory testing of materials, methods or other construction related items at its expense.

2.17.4.1 When the first and subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and the cost of all tests, except the first test, will be paid for by the Design-Builder. Construction contingency cannot be utilized for the cost of re-testing.

2.17.4.2 When the first and subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.

2.17.5 The Design-Builder will 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.

2.17.6 At the option of the City, materials may be approved at the source of supply before delivery is started.

2.17.7 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 the Design-Builder, unless otherwise provided in the Contract Documents.

2.17.8 Design-Builder's convenience and quality control testing and inspections shall be the sole responsibility of the Design-Builder and paid by the Design-Builder.

2.18 **Trade names and Substitutions**. Construction Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number, unless indicated that no substitutions are permitted, may be substituted. Substitute or alternate items may be permitted, subject to the following:

2.18.1 The substitution shall be submitted by Design-Builder in writing to the City.

2.18.2 The Design-Builder shall certify that the substitution will 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.

2.18.3 The submittal shall state any required changes in the Construction Documents to adapt the design to the proposed substitution.

2.18.4 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. Substitutions will only be considered if they do not extend Contract Time.

2.18.5 The Design-Builder if requested by the City shall submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.

2.18.6 The City will make the final decision and will notify the Design-Builder in writing as to whether the substitution has been accepted or rejected. If accepted, the Design-Builder will cause the Construction Documents to be revised as approved at the Design-Builder's cost.

2.18.7 The Design-Builder shall continue to perform the construction in accordance with the Construction Documents unless the City accepts the substitution and there is no extension of Contract Time.

2.19 Project Record Documents

2.19.1 During the construction period, the Design-Builder shall maintain at the Site a set of blueline or blackline prints of the Construction Drawings and Shop Drawings for Project Record Document purposes.

2.19.1.1 The Design-Builder shall mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Drawings. The Design-Builder 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:

- Dimensional changes to the drawings.
- Revisions to details shown on drawings
- Depths of foundations below first floor
- Locations and depths of underground utilities
- Revisions to routing of piping and conduits.
- Revisions to electrical circuitry.
- Actual equipment locations.
- Duct size and routing.
- Locations of concealed internal utilities.
- Changes made by Change Order, Field Order, Report of Field Change, ASI or RFI.
- Details not on original Construction Drawings.

2.19.1.2 The Design-Builder shall mark completely and accurately Project record drawing prints of Construction Drawings or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on Construction Drawings location.

2.19.1.3 The Design-Builder shall mark Project record drawings sets with red erasable colored pencil.

2.19.1.4 The Design-Builder shall note RFI Numbers, ASI Numbers and Change Order numbers, etc, as required to identify the source of the change to Construction Drawings.

2.19.1.5 The Design-Builder shall as a condition of Substantial Completion, submit Project record drawing prints and Shop Drawings to the City or its representative for review and comment.

2.19.2 Final Project record drawings: Upon receipt of the reviewed Project record drawings from the City, the Design-Builder shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the City within 14 Days:

2.19.2.1 On electronic media: (i) a complete set of Project record drawings prepared in Autocad format compatible with City of Flagstaff Community Development Department CADD technology using City layering standards, each drawing shall be clearly marked with “As-Built Document;" (ii) a complete set of Project specifications in Microsoft Word format; and (iii) Shop Drawings in CADD or graphic file format.

2.19.2.2 On hard copy media: (i) a complete set of reproducible mylars from the final AutoCAD drawings in the format compatible with City of Flagstaff Community Development Department CADD technology using City layering standards; and (ii) two edge bound blueline or blackline sets reproduced from these mylars.

2.19.2.3 The original copy of the Project record drawings (redline mark-ups).

2.20 Project Safety

2.20.1 Design-Builder recognizes the importance of performing the construction 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 construction, including materials and equipment incorporated into the construction or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

2.20.2 Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the construction.

2.20.3 Design-Builder 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 construction. Unless otherwise required by the Contract Documents, Design-Builder's safety representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety.

2.20.4 The safety representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.20.5 Design-Builder 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.

2.20.6 Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the construction to City'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 construction.

2.20.7 Design-Builder'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 construction.

2.21 Commissioning

2.21.1 The Design-Builder shall develop a Commissioning program, subject to the City's approval, as part of its CMP pursuant to section 2.7.

2.21.2 The Commissioning program shall include the roles and responsibilities of the City, tenants, and the Design-Builder.

2.21.3 The Design-Builder will provide a final Commissioning report indicating that the Project and all its systems and components are functioning as prescribed in the Contract Documents and training has been completed as required by the Contract Documents.

2.22 Design-Builder's Warranty

2.22.1 Design-Builder warrants to City 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.

2.22.2 Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Project by persons other than Design-Builder and anyone for whose acts Design-Builder may be liable.

2.22.3 Design-Builder's warranty obligation shall be for one year, except for such greater periods as may be required by the technical specifications.

2.22.4 Nothing in this warranty is intended to limit any manufacturer's warranty, or any other remedy at law available to the City, which provides City with greater warranty or other rights than set forth in this section or the Construction Documents.

2.22.5 Design-Builder will provide City with all manufacturers' warranties upon Substantial Completion.

2.23 Correction of Defective Construction

2.23.1 Design-Builder agrees to correct any construction that is found to not be in conformance with the Construction Documents, including that part of the construction subject to section 2.22 hereof. A progress payment, or partial or entire use or occupancy of the Project by the City shall not constitute acceptance of construction not in accordance with the Construction Documents.

2.23.2 Design-Builder shall, within seven Days of receipt of written notice from City that the construction is not in conformance with the Construction Documents, take meaningful steps to commence correction of such nonconforming construction, including the correction, removal or replacement of the nonconforming construction and any damage caused to other parts of the construction affected by the nonconforming construction.

2.23.3 If Design-Builder fails to commence the necessary steps within such seven Day period, City, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that City will commence correction of such nonconforming construction with its own forces. If City does perform such corrective construction, Design-Builder shall be responsible for all reasonable costs incurred by City in performing such correction. Any such Work performed by the City as a result of the Design-Builder's failure to commence corrective action shall not impact, in any way, the remaining warranty of the affected construction.

2.23.4 If the nonconforming construction creates an emergency requiring an immediate response, the Design-Builder will respond and initiate corrections within twenty-four hours.

2.23.5 Sections 2.22 and/or 2.23 above shall not limit any rights or remedies the City may have regarding Design-Builder's obligations under the Contract Documents.

ARTICLE 3 - CITY'S SERVICES AND RESPONSIBILITIES

3.1 Duty to Cooperate

3.1.1 City shall, throughout the performance of Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 City shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in the Project Schedule.

3.1.3 City's Representative as identified in section 8.4.1.2 shall be responsible for providing City-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. City's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work.

3.1.4 Appropriate City staff will be available and will participate in required training as part of the Commissioning activities.

3.1.4 If requested by the Design-Builder, the City's Representative will provide assistance and guidance in obtaining necessary permits. Regulating agencies of the City, such as the Community Development Department and the Utilities Department, enforce Legal Requirements. These enforcement activities are not subject to the responsibilities of the City under this Agreement.

3.2 Furnishing of Services and Information

3.2.1 The City will be responsible for the payment of the following:

3.2.1.1 City review and permit(s) fees for building and demolition permits.

3.2.1.2 City review fees for grading and drainage, water, sewer, and landscaping.

3.2.1.3 Utility fees for permanent services.

3.2.2 Unless expressly stated to the contrary in the Contract Documents, City will provide, at its own cost and expense, for Design-Builder's information, the following:

3.2.2.1 To the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

3.2.2.2 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.2.3 A legal description of the Site.

3.2.2.4 To the extent available, as-built record and/or historical drawings of any existing structures at the Site;

3.2.2.5 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including hazardous materials, in existence at the Site; and

3.2.2.6 To the extent available, geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.3 City will provide all City standards and guidelines, supplementary conditions and special provisions that shall be included in the plans and specifications for the Project. These may include but are not limited to: disposal of surplus material, special security provisions, investigation of underground facilities, traffic controls and regulations, special quality control testing and termite treatment requirements.

3.2.4 City is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the construction. City is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Field Inspections

3.3.1 The City may utilize field inspectors to assist the City's Representative during construction in observing performance of the Design-Builder. The inspector is for the purpose of assisting the City's Representative and should not be confused with an inspector with a City regulatory agency or with an inspector from a City laboratory pursuant to section 2.17.

3.3.2 Through onsite observation of the Work in progress and field checks of materials and equipment, the inspector shall endeavor to provide protection against defects and deficiencies in the Work.

3.3.2.1 The inspector will 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.

3.3.2.2 The inspector will not be authorized to issue instructions contrary to the Construction Documents or to act as foremen for the Design-Builder.

3.3.2.3 The inspector shall have the authority to reject Work or materials until any questions at issue can be decided by the City's Representative.

3.3.3 The furnishing of such services for the City shall not make the City responsible for or give the City control over construction means, methods, techniques, sequence or procedures or for safety precautions or programs or responsibility for the Design-Builder's failure to perform the Work in accordance with Contract Documents.

3.4 City's Separate Contractors. City is responsible for all Work performed on the Project or at the Site by separate contractors under City's control. City shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

3.5 Project Management Services (if applicable to this Project)

3.5.1 The City at its own expense may contract separately with one or more technical consultants to provide project management assistance of the Project. The technical consultant's contract as well as the contract of any other firms hired by the City shall be furnished to the Design-Builder. The Design-Builder shall not have any right however, to limit or restrict any contract modifications that are mutually acceptable to the City and technical consultant.

3.5.2 The technical consultant services**, if any,** will augment the City staffing resources to effectively manage the objectives of the City and this Project with the goal of managing the key project communication, cost and time parameters. The City and the Design-Builder shall endeavor to communicate through the technical consultant.

3.5.3 The technical consultant may provide preprogramming and design standards.

3.5.4 The City may contract with the technical consultant to provide some or all of the following services during the performance of the construction:

3.5.4.1 Oversight of the construction.

3.5.4.2 Site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed construction and to determine in general if the construction is being performed in accordance with the Construction Documents. The technical consultant will keep the City informed of progress of the construction, and will endeavor to guard the City against defects and deficiencies in the construction. The technical consultant 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 section 2.17.

3.5.4.3 Review and recommend approval of the Design-Builder's Payment Requests.

3.5.4.4 Interpretations of matters concerning performance under and requirements of the Contract Documents on written request of the City. The technical consultant's response to such requests will be made with reasonable promptness and within any time limits agreed upon.

3.5.4.5 Analyze, recommend and assist in negotiations of Change Orders.

3.5.4.6 Conduct inspections to determine Substantial Completion and Final Acceptance.

3.5.4.7 Receive and forward to the City for the City's review and records written warranties and related documents required by the Contract Documents and assembled by the Design-Builder.

3.5.5 Commissioning Services**.** The technical consultant may supervise and/or participate in the Commissioning activities.

ARTICLE 4 – CONTRACT TIME

4.1 Contract Time.

4.1.1 Contract Time shall start with the Notice to Proceed (NTP) and end with Substantial Completion.

4.1.2 The City shall issue a NTP letter establishing the mutually agreed upon NTP date for this Agreement and design.

4.1.3 The Design-Builder shall provide a Project Schedule of the design activities within seven (7) Days after the NTP.

4.1.3.1 The Project Schedule shall provide fourteen (14) Days to be used by the City or its designee for reviews and approvals for any interim design submissions pursuant to section 2.8.

4.1.3.2 Failure on the part of the Design-Builder to adhere to the Project Schedule may be the basis for termination of this Agreement by the City.

4.1.4 Each GMP amendment to this Agreement will establish a separate construction NTP date Performance Period and Substantial Completion date for the entire Project. The Performance Period(s) for individual GMP's may be sequential or concurrent as established in the individual Notices To Proceed.

4.1.5 Design-Builder agrees that it will commence performance of the Work and achieve Performance Periods and the Contract Time.

4.1.6 All of the times set forth in this Article 4 or by amendments to this Agreement shall be subject to adjustment in accordance with Article 6.

4.2 Construction Schedule. Each approved GMP proposal shall include a Project Schedule as prescribed in section 2.4 with a CPM diagram construction schedule that will indicate the path of critical activities and establish the Performance Period encompassed by the GMP. The Design-Builder will maintain the construction schedule throughout the construction.

4.3 Substantial Completion

4.3.1 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. Substantial Completion shall be in accordance with its definition in Article 1 and with the criteria set forth in the Notice to Proceed.

4.3.2 Prior to notifying the City in accordance with section 4.3.3 below, the Design-Builder shall inspect the construction and prepare and submit to the City a comprehensive list of items to be completed or corrected. The Design-Builder 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 the Design-Builder to complete all construction in accordance with the Construction Documents.

4.3.3 Design-Builder shall notify City when it believes the construction, or a portion of the construction, is substantially complete.

4.3.4 Within five Days of City's receipt of Design-Builder's notice, City and Design-Builder will jointly inspect such construction to verify that it is substantially complete in accordance with the requirements of the Construction Documents.

4.3.5 If such construction is substantially complete, City shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the construction or portion thereof, (ii) the remaining items of construction that have to be completed within thirty Days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing City's and Design-Builder'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.

4.3.6 City, at its option, may use a portion of the construction which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of construction addressing the items set forth in section 4.3.5 above, (ii) Design-Builder and City 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) City and Design-Builder agree that City's use or occupancy will not interfere with Design-Builder's completion of the remaining construction.

4.4 Final Completion and Acceptance. The Work, or identified portions of the Work, must be finally complete within thirty Days from the date the Certificate of Substantial Completion is issued unless there is a written agreement of the parties that establishes another date for Final Completion. Upon receipt of written notice that the construction or identified portions of the Work is ready for final inspection and acceptance, City and Design-Builder will jointly inspect to verify that the remaining items of Work have been completed as set forth in section 4.3.5. The City will issue a Final Acceptance letter when the City finds the Work or identified portions of the Work to be finally complete.

4.5 Liquidated Damages – Substantial Completion. Design-Builder understands that if Substantial Completion is not attained within the Contract Time as may be adjusted, City will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained within the Contract Time as may be adjusted, Design-Builder shall pay the City) as liquidated damages, and not as a penalty, 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. Liquidated damages are specified in MAG specifications and will only apply to construction schedules approved by a Contract amendment.

4.6 Liquidated Damages – Final Completion. Design-Builder understands that if Final Completion is not attained within the time allowed in section 4.4 above, as may be adjusted, the City will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Final Completion is not attained within the specified time as may be adjusted, Design-Builder shall pay the City as liquidated damages, and not as a penalty, for each Day that Final Completion extends beyond the date for Final Completion as determined by the Agreement and further agrees that such amount is reasonable under the circumstances. Liquidated damages are specified in MAG specifications and will only apply to construction schedules approved by a Contract amendment.

ARTICLE 5 – CONTRACT PRICE

5.1 Contract Price.

5.1.1 The Contract Price will be the amounts prescribed for design in section 5.2 below plus GMPs and Owner's Contingency.

5.1.2 The Contract Price is subject to adjustments made in accordance with Article 6 and by amendment.

5.1.2.1 GMP amendments are cumulative except for contingency. The amount of contingency for each GMP amendment will be negotiated separately.

5.1.2.2 If the GMP requires an adjustment due to changes in the Work, the cost of such changes is determined subject to Article 6. The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP.

5.1.3 Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes which are legally enacted when negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

5.2 Design

5.2.1 The Design-Builder's fee for providing, through personnel employed by Design-Builder or procured from qualified Subconsultants, Design Services and GMP preparation for the construction of the USGS Renovation and Additions Project. The Fee Schedules in Exhibit B shall determine the basis for payment depending on how and when the individual Sites become available. Any savings from the design shall revert to the City for use during construction.

5.2.2 The contract fees for Design-Builder and Subconsultants shall be based upon the approved cost proposals for each phase of the Project or amendment to this Contract and shall be attached hereto as Exhibit B.

5.3 GMP

5.3.1 At the end of the design phase or at a time determined by the City, the City will request the Design-Builder to provide a GMP or series of GMP's at the same or different times. The approved GMP(s) will be made part of this Agreement by amendment. The GMP(s) will include amounts for completion of design, if applicable, in the same format as prescribed above and a price for construction in accordance with section 5.3.3.

5.3.2 The Design-Builder guarantees to bring the completion of the design and construction within the GMP or Design-Builder alone will be required to pay the difference between the actual cost and the GMP.

5.3.2.1 Any savings of the Design-Builder's bid contingency used to buy out the construction at the conclusion of the selection of Subcontractors may be used during construction by the Owner as a construction contingency.

5.3.2.2 Any savings realized during construction may be, at the City's sole discretion, incorporated into the construction of the Project to fund additional scope items or will be returned to the City upon the City's request.

5.3.3 The GMP is composed of the following not-to-exceed cost reimbursable or lump sum amounts defined below.

5.3.3.1 The Cost of the Work is actual costs and is a not-to-exceed reimbursable amount.

5.3.3.2 The General Conditions Costs are firm fixed lump sum amount which will include bonds and insurance premiums based on the full Contract Price for construction.

5.3.3.3 The Construction Fee is a firm fixed lump sum.

5.3.3.4 Design-Builder's Contingency is an amount the Design-Builder 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 Contingency is assumed to be a direct Project cost so will receive all markups at the time of GMP submission.

5.3.3.5 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.

5.3.3.6 When the Design-Builder utilizes Design-Builder's Contingency funds, the Design-Builder shall make the appropriate changes to the Schedule of Values with the next regular progress Payment Request. The Design-Builder shall deduct the amount of Design-Builder's Contingency funds used from the Design-Builder's 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 Contingency funds are used for a new line item that was not given with the original Schedule of Values, that will be so indicated.

5.3.4 The Owner's Contingency is 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, 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.

5.3.5 GMPs are cumulative except for Design-Builder's Contingency. The amount of Design-Builder Contingency for each GMP amendment will be negotiated separately and shall reflect the Design-Builder's risk from that point in the Project forward.

5.4 GMP Proposal

5.4.1 When requested, the Design-Builder shall submit three sets of the approved sealed design submittal to be used to establish the GMP.

5.4.1.1 The Design-Builder shall sign and date the face of each document of each set used as the basis of the proposed GMP.

5.4.1.2 The Design-Builder shall send two sets of these documents to the City's Representative, while keeping one set for itself.

5.4.2 The GMP proposal shall include:

5.4.2.1 A list of the documents including the latest approved plans and design criteria, with latest issuance date including all Addenda thereto which were used in preparation of the GMP proposal;

5.4.2.2 A list of allowances and a statement of their basis;

5.4.2.3 A list of the clarifications and assumptions made by the Design-Builder in the preparation of the GMP proposal, to supplement the information contained in the documents;

5.4.2.4 A summary of the GMP with a total for each of the components of the GMP as shown in the table below. On the table the percentages requested should be calculated as the percent of the "Total Construction Cost." The sub-amount shown under General Conditions should be included in the General Conditions amount.

PROJECT GMP PROPOSAL SUMMARY SHEET

PROFESSIONAL SERVICES		
	Professional Services	$
	Reimbursables	

	Construction Administration			
			TOTAL PROFESSIONAL SERVICES	$
CONSTRUCTION				
	Cost of the Construction (Labor, Materials, Equipment, Warranty)			$
	Design-Builder's Contingency			
	Indirect Costs		RATE	AMOUNT
	General Conditions, Total		%	$
	Payment and Performance Bond	$	%	
	Insurance	$	%	
	Construction Fee (overhead & profit)		%	$
	Sales Taxes		%	$
			TOTAL CONSTRUCTION COST	$
			Owner's Contingency	$
			GRAND TOTAL	$

5.4.2.5 A spread sheet showing the basis for professional services, with hours and hourly costs for basic services and Subconsultant services indicating overhead and profit.

5.4.2.6 A list and estimated cost of reimbursables and other not-to exceed costs.

5.4.2.7 An itemized detail of any costs proposed to be included in the General Conditions.

5.4.2.8 A statement of proposed additional services, if any.

5.4.2.9 The GMP shall include in the Cost of the Work those taxes that are applicable at the time the GMP is executed. If, in accordance with the City's express written direction an exemption is claimed for taxes, the City agrees to indemnify, defend and hold Design-Builder harmless for any liability, penalty, interest, fine, tax assessment, attorney's fees or other expense or cost incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with the City's direction relative to the taxes as described in this section only.

5.4.2.10 The GMP shall exclude the actual costs of any jurisdictional or regulatory agency permit or fee as well as those for testing and inspection services that are to be paid per section 2.10. However, a detailed estimate of all anticipated direct costs for permits, fees, inspection and testing shall be attached to the GMP.

5.4.2.11 A Schedule of Values for the construction, with the costs organized by subcontract categories, allowances, contingency, General Conditions Costs, and the Design-Builder's construction phase fee.

5.4.2.12 A Project Schedule as prescribed in section 4.2 and establishing the Performance Period and the Scheduled Substantial Completion Date.

5.4.2.13 The updated CMP as prescribed in section 2.7.

5.4.2.14 The street or physical address of the Site of the Work for each GMP, phased GMP, or separate location at which Work, or a portion of the Work, will be performed shall be set forth in each GMP amendment.

5.5 GMP Approval

5.5.1 The Design-Builder shall meet with the City to review the GMP proposal and the written statement of its basis. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, the City shall promptly notify the Design-Builder, who shall make appropriate

adjustments to the GMP proposal, its basis or both.

5.5.2 Upon receiving the GMP proposal from the Design-Builder, the City may submit the same documents that were used by Design-Builder in developing its GMP to an independent third party for review and verification. The third party shall develop an independent estimate and review the CPM schedule.

5.5.2.1 If the Design-Builder's GMP proposal is greater than the independent third party estimate, the City may require the Design-Builder to reconfirm its proposal.

5.5.2.2 The Design-Builder shall describe the differences between the two, and explain why its GMP reflects the scope of the Work and is correct.

5.5.3 If the City accepts the Design-Builder's GMP proposal and the GMP proposal is within the City's budget, the City may accept the Design-Builder's GMP proposal without comment. If the GMP proposal exceeds the City's budget, the City must indicate in writing to the Design-Builder that the budget has been increased to fund the excess cost.

5.5.4 If the City accepts the Design-Builder's GMP, the City and the Design-Builder will execute an amendment to this Agreement for the GMP amending the Contract Price and establishing the Performance Period and the Contract Time.

5.5.5 The City shall authorize and cause the Design-Builder to revise the documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP proposal.

5.5.6 After final submission of the GMP the City may, at the City's sole discretion and for any or no reason, accept or reject the GMP. If the City rejects the Design-Builder's GMP, the City may terminate the Design-Builder's Contract. If the Contract is terminated pursuant to this section, the Design-Builder's compensation shall be limited to the direct cost of its completed Work and materials supplied as of the date of termination. Design-Builder shall not be entitled to any unearned or anticipated profit or overhead. If the Contract is terminated pursuant to this section, Design-Builder shall deliver to the City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by the City.

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

6.1 Delays

6.1.1 If Design-Builder is delayed in the performance of the Work that will 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 of those for whom Design-Builder is responsible, the Contract Times for performance may be reasonably extended by Change Order.

6.1.2 The Design-Builder shall request an increase in the Contract Time by written notice including an estimate of probable effect of delay on progress of the Work.

6.1.2.1 In the case of a continuing delay only one request is necessary.

6.1.2.2 Written notice by the Design-Builder shall be provided to the City within thirty (30) Days of the commencement of the cause.

6.1.2.3 If written notice is received by the City more than thirty (30) Days after commencement of the cause, the period of delay shall be deemed to commence thirty (30) Days prior to the giving of such notice.

6.1.3 By way of example, events that may entitle Design-Builder to an extension of the Contract Time include acts or omissions of City or anyone under City'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.

6.1.4 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.

6.1.5 It is understood, however, that permitting the Design-Builder 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 City of any of its legal rights herein.

6.1.6 In addition to Design-Builder's possible right to a time extension for those events set forth in this section, Design-Builder may 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 Design-Builder and City, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

6.2 Differing Site Conditions

6.2.1 If Design-Builder encounters a Differing Site Condition, Design-Builder may be entitled to a Change Order to adjust the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are impacted by the Differing Site Condition.

6.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to City of such condition, which notice shall not be later than seven Days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

6.3 Legal Requirements. The Contract Price and/or Contract Time(s) shall be adjusted by Change Order to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of this Agreement negatively affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of this Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

6.4 City Requested Change in Work.

6.4.1 The City reserves the right to make, at any time during the progress of the Work, such alterations as may be found necessary or desirable in the City's sole discretion.

6.4.2 Such alterations and changes shall not invalidate this Agreement, and the Design-Builder agrees to perform the Work as altered, the same as if it has been a part of the original Contract.

6.4.3 Upon receipt of a request for proposal for a change in Work, the Design-Builder shall prepare a proposal in significant detail, using the rates and markups established in the Contract Documents as a basis of the Contract Price adjustment. The Design-Builder's proposal shall include a detailed description of any schedule impact.

6.4.4 City and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the adjustment.

6.4.5 If City requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order may be issued to reimburse Design-Builder for reasonable costs incurred for estimating services and other services involved in the preparation of proposed revisions to the Contract Documents.

6.5 Minor Changes. The City may make minor changes in the Work that do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however that Design-Builder shall immediately inform City, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

6.6 Emergencies. In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time on account of emergency work shall be determined as provided in this Article 6.

ARTICLE 7- PROCEDURE FOR PAYMENT

7.1 Design Services

7.1.1 Design-Builder will be paid 100% of the amount earned for Design Services minus the value or cost arising from any deficiencies or defects in the Design Services.

7.1.2 The Design-Builder shall pay all sums due to Subconsultants for services and reimbursable expenses within fourteen calendar Days after the Design-Builder has received payment for those services from the City.

7.1.3 Requests for monthly payments by the Design-Builder shall be submitted on the City's "Payment Request" form and shall be accompanied by a design progress report, detailed invoices and receipts, if applicable. This submittal shall include, as a minimum, a narrative description of the tasks accomplished during the billing period, a listing of any Deliverables submitted, and the Subconsultants' actual requests for payment plus similar narrative and listing of their Work.

7.1.4 After approved completion of design and GMP(s) for the total construction of the Project in accordance with section 2.8 and 5.4, Design-Builder will be paid 100% of the amount for Design Services less the total of payments previously made, subject to section 7.1.1.

7.1.5 Payments for those services negotiated as a lump sum shall be made in accordance with the percentage of the services completed during the preceding month. Those services negotiated as a not-to-exceed fee shall be paid in accordance with the actual cost of the service expended during the preceding month.

7.1.6 All Payment Requests shall be submitted to the City for review and approval.

7.2 Request for Payment for Construction Services. The Design-Builder agrees at its own cost and expense, to perform all construction, as called for by this Agreement free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in this Agreement.

7.2.1 The Schedule of Values submitted as prescribed in section 2.13.5, subject to adjustment in accordance with this Agreement will serve as the basis for monthly progress payments made to Design-Builder throughout the construction.

7.2.2 Design-Builder shall submit to City's Representative the construction phase services "Payment Request" form no later than the **3rd** of the month to be paid on the **15th** check run, or by the **19th** of the month to be paid on the **30th** check run. If the 3rd or 19th falls on a Saturday or Sunday invoices are due on the preceding **Fri**day.

7.2.3 At least five (5) working Days prior to the date established for a Payment Request, the Design-Builder shall submit an updated Project Schedule and meet with the City's Representative to review the progress of the construction, as it will be reflected on the Payment Request.

7.2.4 The Design-Builder Payment Request may request payment for equipment and materials not yet incorporated into the Project if construction progress is in reasonable conformance with the approved schedule.

7.2.4.1 For equipment and materials suitably stored at the Site, the equipment and materials shall be protected by suitable insurance and City shall receive the equipment and materials free and clear of all liens and encumbrances.

7.2.4.2 For materials and equipment stored off the Site, the City must approve the storage facility. The material and equipment must be stored within Coconino County or other sites as may be approved and be accessible for City's inspection. The Design-Builder must establish City title to such materials and equipment or otherwise protect the City's interest and shall include applicable insurance, bonding, storage and transportation to the Site.

7.2.4.3 All bonds and insurance required for stored materials shall name the City as the loss payee to the extent of its interest in the stored materials.

7.2.5 The Payment Request shall constitute Design-Builder's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Payment Request, and all construction will pass to City free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the construction into the Project.

7.3 Progress Payment

7.3.1 City shall make payment in accordance with A.R.S. 34-607 such that payment will be made no later than fourteen Days after Payment Request is certified and approved. City shall review Payment Request and make recommendation of approval or denial within seven Days after City's receipt of each properly submitted and accurate Payment Request, but in each case less the total of payments previously made, and less amounts properly withheld under section 7.3.2 below.

7.3.2 City shall pay Design-Builder all amounts properly due. If City determines that Design-Builder is not entitled to all or part of the Payment Request, it will notify Design-Builder in writing at least seven Days after the date the Payment Request is received by the City. The notice shall indicate the specific amounts City intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify City's concerns. Design-Builder and City will attempt to resolve City's concerns. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 8 hereof.

7.3.3 Notwithstanding anything to the contrary in the Contract Documents, City shall pay Design-Builder all undisputed amounts in a Payment Request within the times required by the Agreement.

7.4 Retention on Progress Payments

7.4.1 City will retain ten percent (10%) of the amount on each Payment Request provided, however, that when fifty percent (50%) of the construction has been completed by Design-Builder, upon request of the Design-Builder, City may reduce the amount retained to five percent (5%) from Design-Builder's subsequent Payment Requests, if the Design-Builder's performance of construction has been satisfactory.

7.4.2 In lieu of retention, the Design-Builder may provide as a substitute any of the following: an assignment of time certificates of deposit (CDs) from a bank licensed by Arizona; securities guaranteed by the United States; securities of the United States, the State of Arizona, Arizona counties, Arizona municipalities, or Arizona school districts; or shares of savings and loan institutions authorized to transact business in Arizona.

7.4.2.1 CDs assigned to the City must be maintained at the City's single servicing bank, currently Wells Fargo, Arizona, in the form of time deposit receipt accounts.

7.4.2.2 Securities deposited in lieu of retention must be deposited into a separate account with a financial institution within the state of Arizona.

7.4.2.3 CDs and Securities shall be assigned exclusively for the benefit of the City of Flagstaff pursuant to the City's form of escrow agreement. Escrow agreement forms may be obtained from the Management Services Department by calling (928)779-7685 x7267.

7.5 Substantial Completion. Upon Substantial Completion of the entire construction or, if applicable, any portion of the construction, City shall release to Design-Builder 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 times (2.5) the reasonable value of all remaining, deficient or incomplete items of construction as noted in the Certificate of Substantial Completion.

7.6 Final Payment

7.6.1 After receipt of a final Payment Request from Design-Builder, City shall make final payment within 60 Days after the receipt by the City, provided that a Final Acceptance Letter has been issued by the City in accordance with section 4.4.

7.6.2 At the time of submission of its final Payment Request, Design-Builder shall provide the following information:

7.6.2.1 An affidavit 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 construction which will in any way affect City’s interests.

7.6.2.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to City and remaining unsettled at the time of final payment, and

7.6.2.3 Consent of Design-Builder’s surety, if any, to final payment.

7.7 Payments To Subcontractors or Suppliers

7.7.1 Design-Builder shall pay its Subcontractors or Suppliers regularly in accordance with the terms of the contract with its Subcontractors or Suppliers and in accordance with law.

7.7.2 If the Design-Builder fails to make payments in accordance with these provisions, the City may take any one or more of the following actions and Design-Builder agrees that the City may take such actions:

7.7.2.1 To hold the Design-Builder in default under this Agreement;

7.7.2.2 Withhold future payments including retention until proper payment has been made to Subcontractors or Suppliers in accordance with these provisions;

7.7.2.3 Reject all future offers to perform work for the City from the Design-Builder for a period not to exceed one year from Substantial Completion date of this Project.

7.7.2.4 Terminate this Agreement.

7.7.3 If Design-Builder’s payment to a Subcontractor or Supplier is in dispute, it shall act in compliance with A.R.S. § 32-1129.02 and related statutes as amended, and shall further hold the City harmless from any ensuing damages, claims or costs.

7.7.4 Should the City 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.

7.7.5 Design-Builder shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

7.8 Record Keeping and Finance Controls

7.8.1 Records of the Design-Builder's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and Design-Builder shall be kept on a generally recognized accounting basis and shall be available for up to three years following Final Completion of the Project.

7.8.2 The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the Design-Builder's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any change orders.

7.8.3 The City reserves the right to decrease Contract Price and/or payments made on this Agreement if, upon audit of the Design-Builder's records, the audit discloses the Design-Builder has provided false, misleading, or inaccurate cost and pricing data.

7.8.4 The Design-Builder shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the City, 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.

7.8.5 The City 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 contracts, and one or more Subconsultants and/or Subcontractors do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

ARTICLE 8- CLAIMS AND DISPUTES

8.1 Requests for Contract Adjustments and Relief.

8.1.1 If either Design-Builder or City believes that it is entitled to relief against the other for any event arising out of or related to the Work, such party shall provide written notice to the other party of the basis for its claim for relief.

8.1.2 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.

8.1.3 In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one 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.

8.1.4 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.

8.2 Dispute Avoidance and Resolution

8.2.1 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, Design-Builder and City 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.

8.2.2 Design-Builder and City will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and City's Representative.

8.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and City's Representative, Design-Builder's Senior Representative and City'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 will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

8.2.4 Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement must 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 will be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

8.3 Duty to Continue Performance. Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and City shall continue to satisfy its payment obligations to Design-Builder pending the final resolution of any dispute or disagreement between Design-Builder and City.

8.4 Representatives of the Parties

8.4.1 City's Representatives

8.4.1.1 City designates the individual listed below as its Senior Representative ("City's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under section 8.2.3:

CJ Perry, Chief Information Officer
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

8.4.1.2 City designates the individual listed below as its City's Representative, which individual has the authority and responsibility set forth in section 8.2.2:

CJ Perry, Chief Information Officer
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
.

8.4.2 Design-Builder's Representatives

8.4.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under section 8.2.3:

Name, Title Paul Fleming CEO
Company Name Wecom LLC
Address 3028 E. Sunset Rd.
City, State, Zip Code Las Vegas, NV 89120

8.4.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in section 8.2.2:

Name, Title Clint Wiley COO
Company Name Wecom LLC
Address 3028 E Sunset Rd.
City, State, Zip Code Las Vegas NV 89120

ARTICLE 9 – SUSPENSION AND TERMINATION

9.1 City's Right to Stop Work

9.1.1 City may, at its discretion and without cause, order Design-Builder in writing to stop and suspend the Work. Immediately after receiving such notice, the Design-Builder shall discontinue advancing the Work specified under this Agreement.

9.1.2 Such suspension shall not exceed one hundred eighty (180) consecutive Days during the duration of the Project.

9.1.3 Design-Builder may seek an adjustment of the Contract Price and Time, if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by City.

9.2 Termination for Convenience.

9.2.1 Upon receipt of written notice to Design-Builder, City may, at its discretion and without cause, elect to terminate this Agreement. If the City suspends the Work for 181 consecutive Days or more, such suspension shall be deemed a termination for convenience.

9.2.2 Upon such termination during Design Services, the Design-Builder shall deliver to the City all drawings, plans, specifications, special provisions, estimates and other Work entirely or partially completed, together with all unused materials supplied by the City.

9.2.2.1 The Design-Builder shall estimate the value of the Work it has completed and submit its appraisal to the City for evaluation. The City shall have the right to inspect the Subconsultant's Work to appraise the Work completed.

9.2.2.2 The Design-Builder shall receive compensation for services performed to the date of such termination as set forth in section 9.2.5. The fee shall be paid in accordance with Article 7 of this Agreement, and shall be an amount mutually agreed upon by the Design-Builder and the City. If there is no mutual agreement, the final determination shall be made in accordance with Article 8.

9.2.2.3 Design-Builder shall not be entitled to anticipated profit or anticipated overhead. In no event shall the fee exceed that set forth in Article 5 of this Agreement or as amended.

9.2.2.4 The City shall make the final payment within sixty Days after the Design-Builder has delivered the last of the partially completed items and the final fee has been agreed upon.

9.2.2.5 If City terminates this Agreement pursuant to this section and proceeds to design and construct the Project through its employees, agents or third parties, City's rights to use the work product shall be as set forth in section 12.4 hereof.

9.2.3 Upon such termination during construction services, the Design-Builder shall proceed with the following obligations:

9.2.3.1 Stop Work as specified in the notice.

9.2.3.2 Place no further subcontracts or orders.

9.2.3.3 Terminate all subcontracts to the extent they relate to the Work terminated.

9.2.3.4 Assign to the City all right, title and interest of the Design-Builder under the subcontracts terminated, in

which case the City shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

9.2.3.5 Take any action that may be necessary for the protection and preservation of the property related to the Contract that is in the possession of the Design-Builder and which the City has or may acquire an interest.

9.2.4 The Design-Builder shall submit complete termination inventory schedules no later than sixty (60) Days from the date of the notice of termination.

9.2.5 The City shall pay Design-Builder the following.

9.2.5.1 The direct value of its completed Work and materials supplied as of the date of termination.

9.2.5.2 The reasonable costs and expenses attributable to such termination.

9.2.5.3 Design-Builder shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead. If it appears the Design-Builder would have sustained a loss on the entire Work had the Project been completed, the Design-Builder shall not be allowed profit and the City shall reduce the settlement to reflect the indicated rate of loss.

9.2.6 The Design-Builder shall maintain all records and documents for three years after final settlement. These records shall be maintained and subject to auditing as prescribed in section 7.8.

9.3 City's Right to Perform and Terminate for Cause

9.3.1 If the City provides the Design-Builder with a written order to correct deficiencies to provide adequate maintenance of traffic, adequate cleanup, adequate dust control, or to repair damage resulting from abnormal weather conditions, and the Design-Builder fails to comply in a time frame specified, the City may have Work accomplished by other sources at the Design-Builder 's expense.

9.3.2 If Design-Builder 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 are completed by the Contract Time, as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in sections 9.3.3 and 9.3.4 below.

9.3.3 Upon the occurrence of an event set forth in section 9.3.2 above, City may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) Days of Design-Builder's receipt of such notice.

9.3.3.1 If Design-Builder fails to cure, or reasonably commence to cure, such problem within such seven (7) Day period, then City may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) Day period.

9.3.3.2 If Design-Builder, within such second seven (7) Day period, fails to cure, or reasonably commence to cure, such problem, then City may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

9.3.4 Upon declaring the Agreement terminated pursuant to section 9.3.3.2 above, City may enter upon the Site 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 Design-Builder hereby transfers, assigns and sets over to City 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.

9.3.5 In the event of such termination, Design-Builder 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, the Design-Builder will only be entitled to be paid for Work performed and accepted by the City prior to its default.

9.3.6 If City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to City. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by City in connection with the re-procurement and defense of claims arising from Design-Builder's default.

9.3.7 If City improperly terminates the Agreement for cause, the termination for cause shall be converted to a termination for convenience in accordance with the provisions of section 9.2.

ARTICLE 10 – INSURANCE AND BONDS

10.1 Insurance Requirements

10.1.1 Design-Builder 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 the Design-Builder, his agents, representatives, employees or Subcontractors.

10.1.2 The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

10.1.3 The City in no way warrants that the minimum limits contained herein are sufficient to protect the Design-Builder from liabilities that might arise out of the performance of the Work under this Agreement by the Design-Builder, his agents, representatives, employees, or subcontractors. Design-Builder is free to purchase such additional insurance as may be determined necessary.

10.2 Minimum Scope And Limits Of Insurance. Design-Builder shall provide coverage with limits of liability not less than those stated below:

10.2.1 Commercial General Liability – Occurrence Form
Policy shall include bodily injury, property damage, broad form contractual liability and XCU coverage.

• General Aggregate/for this Project	$2,000,000/$1,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$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 the Design-Builder".**

10.2.2 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 the Design-Builder, including automobiles owned, leased, hired or borrowed by the Design-Builder".**

10.2.3 Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease - Each Employee	$100,000
Disease – Policy Limit	$500,000

10.2.4 Professional Liability

Each Claim	$1,000,000

10.2.4.1 The required professional liability coverage must cover Work done or to be done or on the behalf of the Design-Builder.

10.2.4.2 In the event that professional liability insurance required by this Agreement is written on a "claims made" basis, coverage shall be maintained for two years past completion and acceptance of the Work or services required by this Contract.

10.2.4.3 Any professional liability shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

Builders' Risk Insurance or Installation Floater shall be set forth in an amendment to this Agreement which calls for construction of the Project.

10.2.5 Builders' Risk Insurance or Installation Floater $_____

In an amount equal to the initial Agreement amount plus additional coverage equal to Agreement amount for all subsequent Change Orders.

10.2.5.1 The City of Flagstaff, the Design-Builder, Subcontractors, design professional and design professional's consultant and any others with an insurable interest in the Work shall be **Named Insureds** on the policy**.**

10.2.5.2 Coverage shall be written on an all risk, replacement cost basis and **shall include coverage for soft costs, flood and earth movement**.

10.2.5.3 Policy 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.

10.2.5.4 Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the City.

10.2.5.5 Policy must provide coverage from the time any covered property becomes the responsibility of the Design-Builder, 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.

10.2.5.6 Policy shall contain a **waiver of subrogation** against the City of Flagstaff.

10.2.5.7 Design-Builder is responsible for the payment of all policy deductibles.

10.3 Additional Insurance Requirements. The policies shall include, or be endorsed to include, the following provisions:

10.3.1 The City, its officers, officials, agents, employees and volunteers shall be additional insured to the full limits of liability purchased by the Design-Builder even if those limits of liability are in excess of those required by this Agreement.

10.3.2 The Design-Builder's insurance coverage shall be primary insurance and non-contributory with

respect to all other available sources.

10.3.3 Coverage provided by the Design-Builder shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

10.3.4 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 Design-Builder and Subcontractors for the City.

10.4 Notice Of Cancellation. 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 City. Such notice shall be sent directly to the City Senior Representative and shall be sent by certified mail, return receipt requested.

10.5 Acceptability Of Insurers. Insurance is to be placed with insurers duly licensed companies in the state of Arizona and with an "A.M. Best" rating of not less than A-,7, or as approved by the City and licensed in the State of Arizona with policies and forms satisfactory to the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Design-Builder from potential insurer insolvency.

10.6 Verification Of Coverage

10.6.1 Design-Builder shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) 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.

10.6.2 All certificates and endorsements are to be received and approved by the City before Work commences. Each insurance policy required by this Agreement must 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.

10.6.3 All certificates required by this Agreement shall be sent directly to City's Contracts Division. The City project/contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

10.6.4 If the Certificate of Insurance reflecting policy coverage and cancellation notice does not conform to the City's requirements, the Design-Builder or Subcontractors, as the case may be, must:

- Submit a current insurance certificate (dated within 15 Days of the Payment Request submittal) with each form. The Payment Request will be rejected if the insurance certificate is not submitted with the Payment Request.

10.7 Subcontractors. Design-Builders' certificate(s) shall include all Subcontractors as additional insureds under its policies. All coverage's for Subcontractors shall be subject to the minimum requirements identified above.

10.8 Approval. Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

10.9 Bonds and Other Performance Security.

10.9.1 Prior to execution of this Agreement and/or amendment to this Agreement for any Work that includes construction, the Design-Builder must provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the construction set forth in the GMP.

10.9.2 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 years prior to the execution of this Agreement.

10.9.3 The bonds shall be made payable and acceptable to the City of Flagstaff.

10.9.4 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 this state, as by law required, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.

10.9.4.1 If one Power of Attorney is submitted, it shall be for twice the total GMP amount.

10.9.4.2 If two Powers of Attorney are submitted, each shall be for the total GMP amount. Personal or individual bonds are not acceptable.

10.9.5 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, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

10.9.6 All bonds submitted for this Project shall be provided by a company which has been rated “A-, 7, or better" by the A.M. Best Company.

ARTICLE 11 - INDEMNIFICATION

11.1 Intellectual Property

11.1.1 The Design-Builder shall pay all royalties and license fees associated with its performance of services herewith.

11.1.2 The Design-Builder shall defend any action or proceeding brought against City based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. City shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify, defend and hold harmless City from and against all damages and costs, including but not limited to attorneys’ fees and expenses awarded against City or Design-Builder in any such action or proceeding. Design-Builder agrees to keep City informed of all developments in the defense of such actions.

11.1.3 If City is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder’s option and at Design-Builder’s expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

11.1.4 Sections 11.1.2 and 11.1.3 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer required by City and not offered or recommended by Design-Builder to City and to which Design-Builder has objected in writing or (ii) arising from modifications to the Work by City or its agents after acceptance of the Work

11.1.5 The obligations set forth in this section 11.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

11.2 General Indemnification.

11.2.1 The Design-Builder hereby agrees to indemnify, defend and hold harmless the City, any of its departments, agencies, officers, or employees from all damages, claims or liabilities and expenses (including reasonable Attorney's fees) arising out of or resulting in any way from the performance of professional services for the City in the Design-Builder's capacity as a Design-Builder, and caused by any error, omission, or negligent act of the Design-Builder or any person employed by it or anyone for whose acts the Design-Builder is legally liable. In consideration of the award of this Contract, the Design-Builder agrees to waive all rights of subrogation against the City, its officers, agents and employees for losses arising from the Work performed by the Design-Builder for the City.

11.2.2 The Design-Builder agrees to indemnify, defend and save harmless the City of Flagstaff, its officers, agents and employees, and any jurisdiction or agency issuing permits for any Work included in the Project, their officers, agents and employees, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the Work done in fulfillment of the terms of this Agreement or on account of any act, claim or amount arising or recovered under workmen's compensation law or arising out of the failure of the Design-Builder to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the Design-Builder will be responsible for primary loss investigation, defense and judgment costs where this Agreement of indemnity applies. In consideration of the award of this Agreement, the Design-Builder agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the Work performed by the Design-Builder for the City.

ARTICLE 12 - GENERAL PROVISIONS

12.1 Interpretation and Intent

12.1.1 The Contract Documents form the entire Agreement between City and Design-Builder and by incorporation herein are as fully binding on the parties as it repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

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 definition of Contract Documents in Article 1. In the event conflicts occur between the drawings and specifications, the Design-Builder is deemed to have estimated the more expensive method unless he has asked for and receive a written decision from the City determining which method or material will be required.

12.2 Time is of the Essence. City and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

12.3 Mutual Obligations. City and Design-Builder 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.

12.4 Work Product.

12.4.1 Where Design-Builder Wecom is building a parallel network for both Wecom and the City Fiber Network, Design Builder shall retain ownership of all Work Products but City shall have a license to use and inspect the Work Product for its City Fiber Network. Work products (electronically or

manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file diskettes or CD's, and other related documents which are prepared or procured in the performance of this Agreement (collectively referred to as documents). In all locations where Design-Builder constructs City Fiber Network that is standalone, the Work Products are to be and remain the property of the City and are to be delivered to the City before the final payment is made to the Design-Builder or pursuant to section 9.2.1. In the event these documents are altered, modified or adapted without the written consent of the Design-Builder or the Subconsultants, which consent the Design-Builder or the Subconsultants shall not unreasonably withhold, the City agrees to hold the Design-Builder and the Subconsultants harmless to the extent permitted by law from any liability arising out of the City's alteration, modification or adaption of the documents.

12.4.2 Design-Builder shall retain the copyright in the plans and specifications for the parallel network. Design-Builder shall provide City with a complete set of the plans and specifications prepared under this Agreement for the City Fiber Network and these shall become personal property of the City upon completion and approval of the Construction Documents and payment in full of all monies then due to Design-Builder for services, or upon termination of this Agreement at an earlier time and upon City payment of any pro rata amount due Design-Builder for Design Services at the time of such termination, and City shall have a perpetual license to use such plans and specifications for its City Fiber Network purposes. City will not reuse the plans and specifications for any other project without the prior written authorization of the Design-Builder. City agrees to hold the Design-Builder harmless, to the extent permitted by law, from any liability arising out of the City's modification or alteration of the Construction Documents without the written authorization of Design-Builder. The City specifically reserves the right to use or reuse any design concept, feature, or aspect of the Work incorporated into the plans and specifications in any subsequent City project. The City specifically reserves the right to use or reuse any design concept or aspect of the Work incorporated into the plans and specifications to complete the Project in the event that the City and Design-Builder are unable, after good faith efforts, to execute a GMP. Design-Builder shall incorporate such use rights into any agreement with a Subcontractor or consultant, and shall indemnify the City from any claims from such for copyright or patent infringement.

12.4.3 With this Agreement, the Design-Builder and its Subconsultants hereby grant a license to the City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the documents, works or Deliverables developed or created as a result of the Project and this Agreement and to which Design-Builder and its Subconsultants may retain rights. This license also includes the making of derivative works. In the event that the derivative works require the City to alter or modify the documents, then the provisions of section 12.4.1 apply.

12.5 Assignment. Design-Builder shall not, without the written consent of the City, assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents. Notwithstanding the City's consent to assignment, Contractor as Assignor, and the Assignee shall both remain liable under all rights, obligations, terms and conditions of the contract.

12.6 Successorship. Design-Builder and City intend that the provisions of the Contract Documents are binding upon the parties and their successors and assigns.

12.7 Third Party Beneficiary. Nothing under this Agreement shall be construed to give any rights or benefits in the Agreement to anyone other than the City and the Design-Builder, their successors and assigns, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and the Design-Builder and not for the benefit of any other party.

12.8 Governing Law. The 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.

12.9 Severability. If any provision of this Agreement or the application thereof to any person or

circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

12.10 No Waiver. The failure of either party to enforce any of the provisions of this Agreement 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 this Agreement or any part thereof, or the right of either party to thereafter enforce each and every provision.

12.11 Headings. 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.

12.12 Notice.

12.12.1 Many notices or demands required to be given, pursuant to the terms of the Agreement, 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 addresses set forth below ***and*** to legal counsel for the party to whom the notice is being given.

If to City:	**If to Contractor**
Patrick Brown, C.P.M.	**Wecom LLC**
Procurement Director	**Paul Fleming - CEO**
211 W. Aspen Ave	**3028 E. Sunset Rd**
Flagstaff, AZ 86001	**Las Vegas, NV 89120**
With a copy to:	
City Attorney	**Wecom General Counsel**
211 W. Aspen Ave	**3028 E. Sunset Rd**
Flagstaff, AZ 86001	**Las Vegas, NV 89120**

or to such other place and with such other copies as either party may designate as to itself by written notice to the other party. 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.

12.12.2 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, or payment bonds shall be in writing and shall be delivered in person or by courier 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, to the parties listed in section 8.4 with a copy to:

Patrick Brown, C.P.M.
Procurement Director
211 W. Aspen Ave
Flagstaff, AZ 86001

or to such other place and with such other copies as either party may designate as to itself by written notice to the other party. 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.

12.13 Amendments. 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.

12.14 Equal Opportunity/Affirmative Action

12.14.1 The Design-Builder shall comply with the provisions of this Agreement, including the requirements of Article 1-150 of the City of Flagstaff Employee Handbook of Regulations pertaining to discrimination and accepting applications or hiring employees. The Design-Builder shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age or disability nor otherwise commit an unfair employment practice. The Design-Builder will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment, without regard to their race, color, religion, gender or national origin, age or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship as well as all other labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. The Design-Builder further agrees that this clause will be incorporated in all subcontracts, job-consultant contracts of this Contract entered into by the Design-Builder.

12.14.2 The City of Flagstaff extends to each individual, firm, vendor, Supplier, contractor, and Subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of Disadvantaged and/or Minority-owned or Woman-owned business to reflect both the industry and community ethnic composition.

The following two paragraphs apply to the Design-Builder named herein and shall appear in all contracts between the Design-Builder and any and all Subcontractors who are employed on this Project. The Design-Builder further agrees that the two paragraphs will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Contract.

"Any Party (Subcontractor), in performing under this Contract, shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age or disability nor otherwise commit an unfair employment practice.

The Party (Subcontractor) will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, gender or national origin, age or disability. Such action shall include, but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training; including apprenticeship."

The Design-Builder further agrees that the above two paragraphs will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Contract.

12.15 Compliance with Federal Laws. Design-Builder 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 to it. The Design-Builder agrees to comply with these laws in performing this Agreement and to permit the City to verify such compliance.

12.16 Independent Contractor. The Design-Builder is and shall be an independent contractor. Any provisions in this Agreement that may appear to give the City the right to direct the Design-Builder as to the details of accomplishing the Work or to exercise a measure of control over the Work means that the Design-Builder shall follow the wishes of the City as to the results of the Work only.

12.17 City's Right Of Cancellation. All parties hereto acknowledge that this Agreement is subject to cancellation by the City of Flagstaff pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

12.18 Data Confidentiality

12.18.1 As used in this Agreement, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the Design-Builder in the performance of this Agreement.

12.18.2 The parties agree that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Design-Builder in connection with the Design-Builder's performance of this Agreement is confidential and proprietary information belonging to the Design-Bulder and licensed for perpetual use to the City.

12.18.3 The Design-Builder shall not divulge data to any third party without prior written consent of the City. The Design-Builder shall not use the data for any purposes except to perform the services required under this Agreement. These prohibitions shall not apply to the following data provided the Design-Builder has first given the required notice to the City:

12.18.3.1 Data which was known to the Design-Builder prior to its performance under this Agreement;

12.18.3.2 Data which was acquired by the Design-Builder in its performance under this Agreement and which was disclosed to the Design-Builder by a third party, who to the best of the Design-Builder's knowledge and belief, had the legal right to make such disclosure and the Design-Builder is not otherwise required to hold such data in confidence; or

12.18.3.3 Data, which is required to be disclosed by virtue of law, regulation, or court order to which the Design-Builder is subject.

12.18.4 In the event the Design-Builder is required or requested to disclose data to a third party, or any other information to which the Design-Builder became privy as a result of any other contract with the City, the Design-Builder shall first notify the City as set forth in this section of the request or demand for the data. The Design-Builder shall give the City sufficient facts so that the City can be given an opportunity to first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure.

12.19 Conflict Of Interest

12.19.1 To evaluate and avoid potential conflicts of interest, the Design-Builder shall provide written notice to the City, as set forth in this section, of any work or services performed by the Design-Builder for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice shall be given seven (7) business Days prior to commencement of the Project by the Design-Builder for a third party, or seven (7) business Days prior to an adverse action as defined below. Written notice and disclosure shall be sent to the City Senior Representative identified in section 8.4.1.1.

12.19.2 Actions that are considered to be adverse to the City under this Agreement include but are not limited to:

12.19.2.1 Using data as defined in this Agreement acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against the City;

12.19.2.2 Testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; and

12.19.2.3 Using data to produce income for the Design-Builder or its employees independently of performing the services under this Agreement, without the prior written consent of the City.

12.19.3 The Design-Builder represents that except for those persons, entities and projects identified to the City, the services to be performed by the Design-Builder under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the

interests of the City.

12.19.4 The Design-Builder's failure to provide a written notice and disclosure of the information as set forth in this section shall constitute a material breach of this Agreement.

12.19.5 This Contract is subject to the conflict of interest provisions of A.R.S. Section 38-511.

12.20 Legal Requirements. Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

12.21 Confidentiality of Plans and Specifications

12.21.1 Any plans or specifications the Design-Builder generates regarding this Project are for official use only. They may not be shared with others except as required to fulfill the obligations of the Design-Builder's contract with the City.

12.21.2 All Record Documents, Shop Drawings and other plans or drawings prepared or submitted by the Design-Builder shall include the following language: "These plans are official use only and may not be shared with others except as required to fulfill the obligations of the Design-Builder's contract with the City of Flagstaff."

12.22 Hazardous Materials

12.22.1 Unless included in the Work, if the Design-Builder encounters onsite or as material to be incorporated in the Work any material which it reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by public health laws, it shall immediately stop work and report the condition to the City.

12.22.2 If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by public health laws, the Design-Builder shall not resume work in the affected area until the material has been abated or rendered harmless. The Design-Builder and the City may agree, in writing, to continue work in non-affected areas onsite.

12.22.3 An extension of Contract Time may be granted in accordance with Article 6.

12.22.4 The Design-Builder will comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.

12.22.5 Notwithstanding the preceding provisions of this section 12.22, the City is not responsible for hazardous conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. Design-Builder shall indemnify, defend and hold harmless the City and City's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those hazardous conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

12.23 Design-Builder 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, Design-Builder shall take such other measures as it deems reasonable and necessary to further preserve and protect the public health, safety and welfare.

12.23.1 Security Inquiries. Design-Builder 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"). Design-Builder shall perform all such security inquiries and shall make the results available to City for all employees considered for performing Work (including supervision and oversight) under this Agreement. City may make further security inquiries. Whether or not further security inquires are made by City, City may, at its sole, absolute and unfettered discretion, accept or

reject any or all of the employees proposed by Design-Builder for performing Work under this Agreement. Employees rejected by City for performing services under this Agreement may still be engaged by Design-Builder for other Work not involving the City of Flagstaff. An employee rejected for work under this Agreement shall not be proposed to perform Work under other City contracts or engagements without City 's prior approval.

12.23.2 Criteria for Evaluating Security Inquiries. Once formally adopted by City, criteria for excluding an individual from performing Work under this Agreement shall be communicated by City to Design-Builder and used by Design-Builder as a factor in making its decision. Prior to such adoption, Design-Builder 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 City in evaluating its own personnel.

12.23.3 Additional City Rights Regarding Security Inquiries. In addition to the foregoing, City reserves the right to: (i) have an employee/prospective employee of Design-Builder 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); (ii) act on newly acquired information whether or not such information should have been previously discovered; (iii) unilaterally change its standards and criteria relative to the acceptability of Design-Builder 's employees and/or prospective employees; and, (iv) object, at any time and for any reason, to an employee of Design-Builder performing Work (including supervision and oversight) under this Agreement.

12.23.4 Terms of This Provision Applicable to all of Design-Builder 's Contracts and Subcontracts. Design-Builder shall include the terms of this provision for employee background and security checks and screening in all contracts and subcontracts for Work performed under this Agreement, including supervision and oversight.

12.23.5 Materiality of Security Inquiry Provisions. The Security Inquiry provisions of this Agreement, as set forth above, are material to City 's entry into this Agreement and any breach thereof by Design-Builder may, at City 's option, sole and unfettered discretion, be considered to be a breach of contract of sufficient magnitude to terminate this Agreement. Such termination shall subject Design-Builder to liability for its breach of contract.

12.24 Computer Systems. Design-Builder 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 contract.

12.25 Traffic Control. Design-Builder will 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.

12.26 Covenant Against Contingent Fees. The Design-Builder 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 City Council, or any employee of the City of Flagstaff has any interest, financially, or otherwise, in the Design-Builder's firm, or the firms of Design-Builder's Design Consultant, or Design-Builders other consultants or Subcontractors. For breach or violation of this warrant, the City of Flagstaff shall have the right to annul this Agreement without liability, or at its discretion to deduct from the compensation or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

12.27 Fair Treatment of Workers. The Design-Builder shall keep fully informed of all Federal and State laws, County and City ordinances, regulations, codes and all orders and decrees of bodies or tribunals having jurisdiction or authority, which in any way affects the conduct of Work. The Design-Builder shall at all times observe and comply with all such laws, ordinances, regulations, codes. orders and decrees; this includes but is not limited to laws and regulations ensuring fair and equal

treatment for all employees against unfair employment practices, including OSHA and the Fair Labor Standards Act (FLSA). The Design-Builder shall protect, defend and indemnify the City and its representatives against any claim or liability arising from or based on the violation of such, whether by itself or its employees.

12.28 All Work performed shall conform to all applicable City of Flagstaff codes, ordinances and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in Exhibit "A", the provisions in this Agreement shall prevail.

12.29 The following exhibits are included in this Agreement:

Exhibit A – Project Description
Exhibit B – Scope of Services
Exhibit C – Performance Standards Requirements
Exhibit D – Monthly Anticipated Adverse Weather Days

12.30 **Compliance with Federal Immigration Laws and Regulations.** Proposer warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. 23-214.A. Proposer acknowledges that pursuant to A.R.S. 41-4401 a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

12.31. **No Boycott of Israel.** Pursuant to A.R.S. §§ 35-393 and 35-393.01, the Parties certify that they are not currently engaged in and agree, for the duration of the agreement, not to engage in a boycott of Israel.

FIBERT NETWORK
DESIGN-BUILD CONTRACT
PROJECT NO. _____

CONTRACT NO. 2024-125

This Contract will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their undersigned authorized representatives.

CITY OF FLAGSTAFF, ARIZONA,
an Arizona Municipal Corporation

By: _____
Mayor

Date: _____

Wecom, LLC
a Delaware limited liability company

By:_____

Date: _____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A – PROJECT DESCRIPTION

Dated:_____, 2024

The initial phase of the Project consists of the **Design of a Fiber Network for City**.

The design is generally described as follows:

Path:

Design will generally follow the City's desired path for conduit listed on the attached maps as "Planning Fiber Lines" in blue. While some minor deviation from these exact paths is anticipated, the overall intent of the plan, including loops for redundancy, is expected. Specific conduit placement or deviations may be approved by the City.

City-owned ADOT#9 pull boxes will be required at every intersection or street crossing for the City-owned network. Specific placement or deviations may be approved by the City Engineer.

The Arizona Department of Transportation ("ADOT") owns and manages key roads that run through the City of Flagstaff: Highway 89A/Milton Road/E. Route 66, Highway 180. Interstate 40. Any network constructed within the ADOT public right- of-way will need to meet ADOT requirements. Design-Builder shall meet with ADOT and coordinate any ADOT desired connections to traffic signals or facilities at ADOT's expense.

A portion of the City Fiber Network may cross BNSF property. Design-Builder shall meet with BNSF Railway Company ("BNSF") and coordinate with BNSF where paths cross BNSF property.

A portion of the City Fiber Network may cross U.S. Forest Service ("USFS") land. Design-Builder shall meet with USFS real estate department and coordinate with USFS where paths cross USFS property.

The design shall identify what portions of the paths will be aerial and underground. Design-Builder will provide copies of all pole attachment agreements and coordinate with amendment of these agreements to include permission for City use of poles for the City Fiber Network.

Connections:

Design will provide for dark fiber connection of 34 points of interest and 45 traffic/stoplights as listed on the attached chart and further shown on the attached maps.

Design will also provide for connection to existing City conduit as identified in the attached shape files/maps. (As part of separate construction scope of work, Design-Builder will need to test dark fiber strands).

City Fiber Specifications:

Design will provide for minimum 144 strand bundles and generally fit within MaxCell innerducts. City requires locator wires in innerducts for Blue Stake purposes.

Shape Files:

Shape files can be downloaded directly from the following link: https://gis.flagstaffaz.gov/OpenData/City_of_Flagstaff_Fiber_RSOQ_Shapefiles.zip

Wecom Proposal:

City is generally amenable to Wecom's proposal related to design (excerpts) below, subject to City review and approval of manufacturer specifications and warranties:

CITY CONDUIT/FIBER MODEL

Designed with Wecom's Vetro planning software. New innerduct in the map below is (2) 2" HPDE SDR 13.5 d one for Wecom and one for the City. ADOT #9 pull boxes are placed at each corner, underground splice locations, and required pull boxes are placed along the new route. City owned duct (purple), new planned routes (red, orange, blue).



Details on City-owned infrastructure, including:

The Duct (innerduct) shall be 2" HPDE SDR 13.5, orange in color. One new innerduct will be installed for the city and one for Wecom. Wecom suggests 2" innerduct instead of the 3" the city mentioned. When boring a standard machine can bore and then pull quantity two – 2" innerducts through the hole at once, but when you go to 3" you must double bore, and it drives the cost up drastically. City owned fiber shall be Corning SST-Ribbon Single- Tube, Gel-Free, Armored Cable 144 F, single mode (OS2). Drop cables to each location shall be LightScope ZWP Self-supporting All-Dielectric, single mode G.652.D and G.657.A1, 12 fiber arid core construction, gel-filled, central loose tube.

Attachments:
COF Traffic Signals Map
Project Fiber Scope Map (Connection Points)
Project Fiber Scope Map (AOI)
Existing Conduit Layer Map

EXHIBIT B – SCOPE OF SERVICES

Dated:_____, 2024

The Scope of Services are described in Exhibit A.

Deliverables (see Definitions):

- Design specifications for City Fiber Network (to include conduit, fiber, facilities, pull boxes, construction standards that meet Legal Requirements (see Definitions).
- Design to identify general location of pull boxes, and City Fiber Network in public right-of-way (e.g. street crossings, middle/side/shoulder of road etc.)(As-builts will be required at completion of construction).
- Manufacturer specifications and warranties for materials.
- Map showing all points of connection (34 points of interest and 45 traffic lights), and all points of connection to existing City conduit as approved by City.
- Estimated cost of construction of City Fiber Network per linear foot: (a) stand-alone build; and (b)as incremental cost of a joint build.
- Design to identify all underground locations, which may include boring and trenching locations, and aerial locations of the City Fiber Network.
- Design to provide for phasing of construction in coordination with City Capital Improvement Projects (Buffalo Park Reclaimed Water Line, Butler-Fourth Improvements, Cedar-Fourth Street-Lockett Roundabout, First-Mile Last-Mile, and Lone Tree Overpass).

Cost:

City agrees to pay Design-Builder an amount not to exceed $1,000.00 for the Project services described in Exhibit A (City Fiber Network design).

Attachment: Quote

EXHIBIT C – PERFORMANCE STANDARDS REQUIREMENTS

To be included with this Agreement after initial programming session with client group and Design-Build team.

EXHIBIT D – MONTHLY ANTICIPATED ADVERSE WEATHER DAYS

The Contractor will be entitled to a Contract Time extension if the actual adverse weather Days experienced during the Work exceed the anticipated adverse weather Days shown in Table 108.7. Table 108.7 as follows is the monthly schedule of adverse weather Days that shall be anticipated by the Contractor in scheduling the Work:

TABLE 108.7 – MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

MONTH	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS	**7 days**	**7 days**	**8 days**	**6 days**	**4 days**	**3 days**
AVERAGE MONTHLY PRECIPITATION	1.98”	1.96”	2.05”	1.84”	0.68”	0.51”
MONTHLY DAILY HIGH TEMPERATURE ≤32º F	5 days	3 days	2 days	0 days	0 days	0 days
MONTH	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS	**12 day**	**11 days**	**7 days**	**5 days**	**5 days**	**6 days**
AVERAGE MONTHLY PRECIPITATION	2.78”	2.68”	1.82”	1.52”	1.49”	1.90”
MONTHLY DAILY HIGH TEMPERATURE ≤ 32º F	0 days	0 days	0 days	0 days	1 day	5 days

The above schedule of anticipated adverse weather days establishes the base line for the project’s monthly weather impacts, based on historical records, as recorded by the National Weather Service at Pulliam Airport, for precipitation in excess of 0.01 inch and daily high temperatures below 32º Fahrenheit.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sterling Solomon, City Attorney

Date: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Adoption of Ordinance No. 2024-21: An ordinance of the City Council of the City of Flagstaff accepting and approving an easement agreement and grant of easement from BNSF for the installation of a water line and fire hydrant for fire suppression purposes.

STAFF RECOMMENDED ACTION:

At the September 3, 2024 Council Meeting:

1) Read Ordinance No. 2024-21 by title only for the first time
2) City Clerk reads Ordinance No. 2024-21 by title only (if approved above)

At the September 17, 2024 Council Meeting:

3) Read Ordinance No. 2024-21 by title only for the final time
4) City Clerk reads Ordinance No. 2024-21 by title only (if approved above)
5) Adopt Ordinance No. 2024-21

Executive Summary:

The proposed ordinance authorizes a property acquisition as contemplated by the Flagstaff City Charter, Article VII, section 5, which provides that acquisition of all public real property and property exchanges are to be authorized by ordinance. The ordinance serves to approve the acquisition of a specific easement over real property owned by BNSF through an easement agreement for the installation of a water line and easement for fire suppression purposes. The proposed ordinance also approves this specific acquisition as contemplated by an agreement the details of which are confidential pursuant to ARS 40-360.30.

Financial Impact:

Real property is considered a fixed asset in the City. Until City Council approves an ordinance accepting the acquisitions, the real property value is not recognized in an audit so while there is not an actual financial expenditure associated with these acquisitions, there is a fixed asset value the City receives through this action.

Policy Impact:

None.

Previous Council Decision or Community Discussion:

None.

Options and Alternatives to Recommended Action:

1. Approve the easement agreement.
2. Do not approve the easement agreement.

Background and History:

BNSF and the City have been working toward the installation of a hydrant to allow further development (by right) of BNSF-owned property by BNSF. The development requires the installation of a hydrant and water

line to supply the hydrant. This action is the culmination of an easement from BNSF to the City for said installation. The hydrant and water line are mutually beneficial to BNSF and the City.

Connection to PBB Priorities and Objectives:
None.

Connection to Regional Plan:
None.

Connection to Carbon Neutrality Plan:
None.

Connection to 10-Year Housing Plan:
None.

Connection to Division Specific Plan:
None.

Attachments: Ord. 2024-21

ORDINANCE NO. 2024-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ACCEPTING AND APPROVING AN EASEMENT AGREEMENT WITH BNSF; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, BNSF is in need of a water line and hydrant for fire suppression in a portion of BNSF property; and

WHEREAS, it will also be beneficial for the City of Flagstaff ("City") to install a water line and hydrant for fire suppression purposes; and

WHEREAS, BNSF is willing to grant the City a utility easement for the location of a water line and hydrant that will be beneficial for both the City and BNSF; and

WHEREAS, the City and BNSF have reached an agreement with BNSF for the granting of an easement for the purpose of installing a water line and hydrant for fire suppression purposes.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: In General.

That the City formally approves and accepts the easement agreement and easements and real property needed for the installation of a water line and hydrant for fire suppression purposes.

SECTION 2: Delegation of Authority.

That the City Manager, the City Attorney, the City Clerk, the Finance Director, the City Real Estate Manager, or other employees or agents as deemed necessary, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this ordinance.

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 17th day of September, 2024.

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: 08/29/2024

Meeting Date: 09/03/2024

TITLE:

Consideration and Possible Action: Use of the Council Initiative Fund.

STAFF RECOMMENDED ACTION:

Authorize the use of the Council Initiative Fund to support the Kinsey Elementary After School Program and discuss any other programs Council may like to consider funding within this fiscal year's Council Initiative Fund.

Executive Summary:

Kinsey Elementary lost its after school funding and the Boys and Girls Club is trying to raise between $60k and $80k to continue to provide after-school services to those children and families.

Financial Impact:

Cost: Up to $25,000
Account Number Budgeted: 001-09-401-1300-1-4290
FY24 Budgeted Amount: $25,000.00
Funding Source: General Fund

Policy Impact:

None

Previous Council Decision or Community Discussion:

None

Options and Alternatives to Recommended Action:

None

Background and History:

The Council Initiatives Fund was established and included in the 2020-21 Budget. The formation of this particular fund was not driven by any singular request or need, but rather as a proactive measure to enable our City Council to approve unforeseen expenditures, from time to time, that would be of benefit to the Flagstaff community. The fund is limited in amount ($25K annual appropriation) and it does not rollover or accumulate. It is an annual appropriation.

There are numerous instances throughout the course of the fiscal year where Council may want to approve miscellaneous expenditures, for the benefit of our community, that simply do not fall neatly within a specific budget appropriation. This fund is intended to allow Council some discretion to approve such expenditures. There is no established process for doing so, other than majority support. We of course always need to stay within our legal parameters and our City Attorney can advise accordingly. Similarly, such matters should be identified on the Council meeting agenda, as an action item.

Connection to PBB Priorities and Objectives:
The Council Initiative fund is intended to support all Council goals, objectives and priorities.

Connection to Regional Plan:
None

Connection to Carbon Neutrality Plan:
None

Connection to 10-Year Housing Plan:
None

Attachments: Kinsey Article

Boys & Girls Club of Flagstaff reports — Kinsey Elementary's after-school program seeking funding

Aug 6, 2024 | CCC&Y Info & Events

Editor's Note *— The following is a guest contribution by the* ***Boys & Girls Club of Flagstaff****.*

By the Boys & Girls Club of Flagstaff

Let's unite to take care of our own! Kinsey Elementary's after-school program has lost funding, leaving 130+ youth without a safe space. We, the Boys and Girls Club, can step in with your support. I am seeking funding for the Boys & Girls Club of Flagstaff in partnership with the Lura Kinsey Elementary School's after-school programming for the current school year. Lura Kinsey Elementary is a public magnet school located in Flagstaff, AZ. It serves a diverse student body of 362 students from Pre-K to 5th grade, with a student-teacher ratio of 12 to 1.

As a Title I school, Lura Kinsey Elementary provides essential after-school programming for underserved and underrepresented students. These programs have a significant impact, serving over 130+ students and offering them a safe and supportive environment for learning and growth beyond regular school hours.

Unfortunately, this fiscal year, they did not receive the anticipated $120,000 in federal funding from the 21st Century Community Learning Centers program, which has historically supported their after-school initiatives. This

shortfall puts these valuable programs at risk, potentially leaving many students without the critical resources and opportunities they need to succeed.

To address this urgent need, the Boys and Girls Club of Flagstaff is stepping up and are prepared to host the after-school program. However, we require financial support to make this possible. We are seeking funding, pledges and commitments from amazing folks like yourself before Labor Day as the semester starts next week. Your assistance in providing funding through these channels would ensure the continuation of these vital programs and directly contribute to the well-being and educational development of our students.

The Boys & Girls Club of Flagstaff can run a similar program starting at $80,000 in our current site of Cogdill Center to help address the need.

Help Us, Help Others. Let's Unite.

For more information, send an email to Mark.Cox@bgcflag.org or call 928-440-4460.

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