CITY COUNCIL REGULAR MEETING AGENDA

REGULAR COUNCIL MEETING
TUESDAY
MAY 6, 2025

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 SWEET
COUNCILMEMBER ASLAN
COUNCILMEMBER GARCIA
COUNCILMEMBER HOUSE
COUNCILMEMBER MATTHEWS
COUNCILMEMBER SPENCE

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. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

A. **Consideration and Approval of Minutes:** City Council Special Meeting Work Session March 23, 2021, City Council Work Session April 27, 2021, Joint City Council/Coconino County Work Session April 28, 2021, City Council Work Session November 23, 2021, City Council Special Meeting Work Session March 29, 2022, City Council Work Session October 25, 2022, Joint City Council/Coconino County Work Session March 6, 2023, City Council Work Session April 25, 2023, City Council Work Session September 26, 2023, City Council Work Session February 27, 2024, City Council Special Meeting Work Session May 14, 2024, City Council Special Work Session May 16, 2024, City Council Work Session May 28, 2024, City Council Special Meeting Work Session July 7, 2024, City Council Regular Meeting March 4, 2025, and Joint City Council/Coconino County Work Session April 14, 2025, City Council Work Session April 22, 2025.

STAFF RECOMMENDED ACTION:

Approve the minutes of the City Council Special Meeting Work Session March 23, 2021, City Council Work Session April 27, 2021, Joint City Council/Coconino County Work Session April 28, 2021, City Council Work Session November 23, 2021, City Council Special Meeting Work Session March 29, 2022, City Council Work Session October 25, 2022, Joint City Council/Coconino County Work Session March 6, 2023, City Council Work Session April 25, 2023, City Council Work Session September 26, 2023, City Council Work Session February 27, 2024, City Council Special Meeting Work Session May 14, 2024, City Council Special Work Session May 16, 2024, City Council Work Session May 28, 2024, City Council Special Meeting Work Session July 7, 2024, City Council Regular Meeting March 4, 2025, and Joint City Council/Coconino County Work Session April 14, 2025, City Council Work Session April 22, 2025.

5. 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.

6. PROCLAMATIONS AND RECOGNITIONS

A. **Proclamation:** Jewish Heritage Month

B. **Proclamation**: Asian American, Native Hawaiian, and Pacific Islander (AANHPI) Heritage Month

C. **Proclamation**: National Travel and Tourism Week

7. COUNCIL LIAISON REPORTS

8. 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:** Change Order No. 2 with Eagle Mountain Construction, Inc. in the amount of $439,009.00 for The Wedge Phase 3, GMP 5, Amendment No. Five, as part of the Spruce Wash Flood Mitigation Suite of Projects

STAFF RECOMMENDED ACTION:

1. Approve Change Order No. 2 for The Wedge Phase 3 in an amount of $439,009.00; and
2. Authorize the City Manager to execute the necessary documents.

B. **Consideration and Approval:** Confirming appointees selected by Mayor for the citizen positions on PSPRS.

STAFF RECOMMENDED ACTION:

Confirm appointees selected by Mayor.

C. **Consideration and Ratification:** Letter of support for the Arizona Environmental Infrastructure program

STAFF RECOMMENDED ACTION:

Retroactively approve the letter of support.

D. **Consideration and Approval of Contract:** Joint Funding Agreement Renewal with the United States Geological Survey for a streamflow gage at Newman Canyon in the amount of $148,910 for the period of May 1, 2025 to September 30, 2029.

STAFF RECOMMENDED ACTION:

1. Approve the Joint Funding Agreement with the U.S. Geological Survey (USGS) for a streamflow gage at Newman Canyon in the amount of $148,910 for the period of May 1, 2025 to September 30, 2029; and
2. Authorize the City Manager to execute the necessary documents.

E. **Consideration and Approval of Amendment to Contract:** Approve the Second Amendment to the Cooperative Purchase Contract with GovernmentJobs.com, DBA NEOGOV (NEOGOV), in the amount of $102,869.72.

STAFF RECOMMENDED ACTION:

1. Approve the Second Amendment to the Cooperative Purchase Contract with NEOGOV, in the amount of $102,869.72; and
2. Authorize the City Manager to execute the necessary documents.

9. ROUTINE ITEMS

A. **Consideration and Approval of Contract:** Approve the Construction Contract with Hope Construction LLC for Sport Courts at Bushmaster Park.

STAFF RECOMMENDED ACTION:

1. Approve the Construction Contract with Hope Construction LLC ("Contractor") in the amount of $2,168,892 and a contract time duration of 210 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

10. PUBLIC HEARING ITEMS

1. Open the Public Hearing
2. Presentations (Staff and/or Applicant)
3. Council Questions
4. Public Comment
5. Close the Public Hearing
6. Council Deliberation and Action

A. **Consideration and Adoption of Resolution No. 2025-25 and Ordinance No. 2025-11:** a resolution of the City Council of the City of Flagstaff, declaring that certain document known as "the 2025 City Tax Code Amendments" as a public record, and providing for an effective date; and an ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, title 3 Business Regulations, by adopting the "2025 City Tax Code Amendments" as set forth in that public record on file wit the City Clerk relating to codification of voter approved sales tax rates and Model City Tax Code Updates, and increasing the use tax rate to match sales tax rates; providing for repeal of conflicting ordinances, severability, clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:
1) Read Resolution No. 2025-25 by title only for the first time
2) City Clerk reads Resolution No. 2025-25 by title only (if approved above)
3) Read Ordinance No. 2025-11 by title only for the first time
4) City Clerk reads Ordinance No. 2025-11 by title only (if approved above)
5) Continue the public hearing

At the May 20, 2025 Council Meeting:
6) Adopt Resolution No. 2025-25
7) Read Ordinance No. 2025-11 by title only for the final time
8) City Clerk reads Ordinance No. 2025-11 by title only (if approved above)
9) Adopt Ordinance No. 2025-11

B. **Consideration and Adoption of Ordinance No. 2025-10:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 7 Health and Sanitation, Chapter 4 Municipal Solid Waste Collection Service, Section 07-04-001-0010 Fees, to add a new fee for public use of city-owned electric vehicle charging stations; providing for penalties, repeal of conflicting ordinances, severability, providing for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:
1) Hold the Public Hearing
2) Read Ordinance No. 2025-10 by title only for the first time
3) City Clerk reads Ordinance No. 2025-10 by title only (if approved above)

At the May 20, 2025 Council Meeting:
4) Read Ordinance No. 2025-10 by title only for the final time
5) City Clerk reads Ordinance No. 2025-10 by title only (if approved above)
6) Adopt Ordinance No. 2025-10

11. REGULAR AGENDA

A. **Consideration and Adoption of Resolution No. 2025-20:** A resolution of the Flagstaff City Council naming the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve the "Jack Welch Memorial Bridge."

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2025-20 by title only
2. City Clerk reads Resolution No. 2025-20 by title only (if approved above)
3. Adopt Resolution No. 2025-20

B. **Consideration and Adoption of Resolution No.2025-23:** A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement between Coconino County and the City of Flagstaff for Criminal Justice Coordinating (CJCC) Management.

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2025-23 by title only
2. City Clerk reads Resolution No. 2025-23 by title only (if approved above)
3. Adopt Resolution No. 2025-23

C. **Consideration and Adoption of Resolution No. 2025-22:** A resolution of the Flagstaff City Council, authorizing the grant agreement for an Arizona State Parks Off-Highway Vehicle Supplemental Grant

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2025-22 by title only
2. City Clerk reads Resolution No. 2025-22 by title only (if approved above)
3. Adopt Resolution No. 2025-22

D. **Consideration and Adoption of Ordinance No. 2025-09**: An ordinance of the City Council of the City of Flagstaff, authorizing the acquisition of real property interests for the Arroyo Seco to Dortha Channel as part of the Spruce Wash Channel Improvements Project; providing for delegation of authority, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:
1. Read Ordinance No. 2025-09 by title only for the first time
2. City Clerk reads Ordinance No. 2025-09 by title only

At the May 20, 2025 Meeting:
3. Read Ordinance No. 2025-09 by title only for the final time
4. City Clerk reads Ordinance No. 2025-09 by title only (if approved above)
5. Adopt Ordinance No.2025-09

E. **Consideration and Adoption of Ordinance No. 2025-08**: An ordinance of the City Council of the City of Flagstaff, establishing the number of signatures required for City of Flagstaff candidate nomination petitions, providing for severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:
1) Read Ordinance No. 2025-08 by title only for the first time
2) City Clerk reads Ordinance No. 2025-08 by title only (if approved above)

At the May 20, 2025 Council Meeting:
3) Read Ordinance No. 2025-08 by title only for the final time
4) City Clerk reads Ordinance No. 2025-08 by title only (if approved above)
5) Adopt Ordinance No. 2025-08

12. DISCUSSION ITEMS

A. LASS + CAP Code Concepts Report Follow-Up

STAFF RECOMMENDED ACTION:

Staff seeks direction on the Land Availability and Suitability Study and Code Analysis Project (LASS+CAP) draft Code Concepts Reports to identify the focus of the next phase, which includes refining the core development standards, incentives, and concepts into more detailed, actionable recommendations for either specific code amendments or further analysis.

13. OPEN CALL TO THE PUBLIC

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

15. 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 _____, 2025.

_____
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: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Approval of Minutes: City Council Special Meeting Work Session March 23, 2021, City Council Work Session April 27, 2021, Joint City Council/Coconino County Work Session April 28, 2021, City Council Work Session November 23, 2021, City Council Special Meeting Work Session March 29, 2022, City Council Work Session October 25, 2022, Joint City Council/Coconino County Work Session March 6, 2023, City Council Work Session April 25, 2023, City Council Work Session September 26, 2023, City Council Work Session February 27, 2024, City Council Special Meeting Work Session May 14, 2024, City Council Special Work Session May 16, 2024, City Council Work Session May 28, 2024, City Council Special Meeting Work Session July 7, 2024, City Council Regular Meeting March 4, 2025, and Joint City Council/Coconino County Work Session April 14, 2025, City Council Work Session April 22, 2025.

STAFF RECOMMENDED ACTION:

Approve the minutes of the City Council Special Meeting Work Session March 23, 2021, City Council Work Session April 27, 2021, Joint City Council/Coconino County Work Session April 28, 2021, City Council Work Session November 23, 2021, City Council Special Meeting Work Session March 29, 2022, City Council Work Session October 25, 2022, Joint City Council/Coconino County Work Session March 6, 2023, City Council Work Session April 25, 2023, City Council Work Session September 26, 2023, City Council Work Session February 27, 2024, City Council Special Meeting Work Session May 14, 2024, City Council Special Work Session May 16, 2024, City Council Work Session May 28, 2024, City Council Special Meeting Work Session July 7, 2024, City Council Regular Meeting March 4, 2025, and Joint City Council/Coconino County Work Session April 14, 2025, City Council Work Session April 22, 2025.

Executive Summary:

Minutes of City Council meetings are a requirement of Arizona Revised Statutes and, additionally, provide a method of informing the public of discussions and actions being taken by the City Council.

Financial Impact:

None

Policy Impact:

None

Previous Council Decision or Community Discussion:

None

Options and Alternatives to Recommended Action:

Council could choose to not approve the minutes.

Connection to PBB Priorities and Objectives:

High Performing Governance: Serve the public by providing high quality customer service

Connection to Regional Plan:
None

Connection to Carbon Neutrality Plan:
None

Connection to 10-Year Housing Plan:
None

Attachments:
03.23.2021.CCSMWS.Minutes
04.27.2021.CCWS. Minutes
04.28.2021.CCJWS.Minutes
11.23.2021.CCWS.Minutes
03.29.2022.CCSMWS.Minutes
07.07.2022.CCSMWS.MinutesMinutes
10.25.2022.CCWS.Minutes
03.06.2023.CCJWS Work Session
04.25.2023.CCWS.Minutes
9.26.23.CCWS.Minutes
2.27.2024.CCWS.Minutes
05.14.2024.CCSMWS.Minutes
05.16.2024.CCSWS.Minutes
5.28.2024.CCWS.Minutes
03.04.2025.CCRM. Minutes
04.14.2025.CCJWS.Minutes
04.22.2025.CCSMWS.Minutes

CITY COUNCIL SPECIAL MEETING / WORK SESSION
TUESDAY, MARCH 23, 2021
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Deasy called the Special Meeting of March 23, 2021, to order at 3:01 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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. Pledge of Allegiance and Mission Statement

The Council and audience recited the pledge of allegiance and Councilmember Salas read the Mission Statement of the City of Flagstaff.

MISSION STATEMENT

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

3. Roll Call

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

PRESENT:	ABSENT:
MAYOR DEASY (virtually) VICE MAYOR DAGGETT (virtually) COUNCILMEMBER ASLAN (virtually and telephonically) COUNCILMEMBER MCCARTHY (virtually) COUNCILMEMBER SALAS (virtually) COUNCILMEMBER SHIMONI (virtually) COUNCILMEMBER SWEET (virtually	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

4. **Consideration and Adoption of Resolution No. 2021-11 and Ordinance No. 2021-05:** A Resolution of the City Council of the City of Flagstaff, Coconino County, Arizona, declaring as a public record that certain document filed with the City Clerk and entitled "Case No. PZ-21-00019 Zoning Code Text Amendment - 2021: Affordable Housing Modified Development Standards;" and, an Ordinance of the City Council of the City of Flagstaff, Coconino County, Arizona, amending the Flagstaff City Code, Title 10, Flagstaff Zoning Code, to modify the Affordable Housing Incentives and Parking Standards.

Zoning Code Manager Dan Symer gave an update to Mayor and Council on the proposed modifications. His slides included:

- Case no. PZ-21-00019 Zoning Code Text Amendment -- 2021 Affordable Housing Modified Development Standards

- Reason for the Proposed Code Text Amendment
- Proposed Zoning Code Amendment -- Revisions Incorporated
- Proposed Zoning Code Amendment -- Required Findings
- Zoning Code Amendment
- Questions and Comments

Moved by Councilmember Jim McCarthy, **seconded by** Vice Mayor Becky Daggett to adopt Resolution 2021-11.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Jim McCarthy, **seconded by** Mayor Paul Deasy to read Ordinance 2021-05.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "CASE NO. PZ-21-00019 ZONING CODE TEXT AMENDMENT2021: AFFORDABLE HOUSING MODIFIED DEVELOPMENT STANDARDS"

Moved by Councilmember Jim McCarthy, **seconded by** Mayor Paul Deasy to adopt Ordinance 2021-05.

Vote: 7 - 0 - Unanimously

5. **Consideration and Approval:** Flagstaff Shelter Services support letter

Vice Mayor Daggett asked if sending a similar letter to the congressional delegation would be appropriate. Public Affairs Director Jessica Drum stated that could be done.

Moved by Mayor Paul Deasy, **seconded by** Councilmember Adam Shimoni to approve the letter of support as written and send a modified letter to the congressional delegation.

Vote: 7 - 0 - Unanimously

6. **Adjournment**

The Special Meeting of the Flagstaff City Council held March 23, 2021, adjourned at 3:10 p.m.

WORK SESSION

1. **Call to Order**

Mayor Deasy called the Work Session of March 23, 2021, to order at 3:10 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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. **Public Participation**

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the

meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

None.

3. **Sustainability Commission Updates**

Sustainability Specialist Dylan Lenzen introduced Sustainability Commission Chair David McCain who gave an update on the Sustainability Commission. Slides Included:

- Background
  - o Formation
  - o Purpose
  - o Commissioners and staff
- Work Program
  - o Current Efforts
  - o Neighborhood Sustainability Grant (NSG) Program
  - o NSG Program -- Examples of Funded Projects
  - o NSG Program -- FY 20-21 Grant Cycle Winner
  - o NSG Program -- Overhaul of Application and Review Process
  - o Advancing the Climate Neutrality Plan
  - o Feedback and Guidance on Other Policy and Programming
  - o Listening Tours of City Operations and Community Initiatives
  - o Collaboration with Beautification and Public Art Commission
- Future Work Program
  - o Upcoming Efforts
- Challenges and Concerns
  - o Ideas for consideration

Mayor Deasy thanked Chair McCain for the work of the commission.

Councilmember Shimoni stated he would like to see more partnership with TerraBirds on the parcel and asked what the next steps are to develop the partnership. Sustainability Director Nicole Antonopoulos stated that it is a partnership with Water Conversation and Parks. Councilmember Shimoni asked for information on transportation in the NSG program. Ms. Antonopoulos added information about the request for an increased budget in the NSG program that would provide for new areas, such as carbon neutrality in transportation.

Vice Mayor Daggett agreed that transportation needs to be a part of the Sustainability discussion.

4. **Open Spaces Commission Update**

Open Space Specialists Robert Wallace and Sylvia Struss introduced the Open Spaces Commissioners. Chair Wilson and Vice Chair Bessler provided an update on the Open Spaces Commission. Slides included:

- Open Spaces Commission Authority
- Discussion
- Map
- Open Spaces Commission Mission & Goals
- Commission Update: Conservation & Restoration
  - Current Focus
  - Positive Impacts
- Commission Update: Integrated & Connected System
  - Current Focus
  - Positive Impacts
- Commission Update: Community Involvement

  - Current Focus
  - Positive Impacts
- Commission Priorities Moving Forward
  - Fiscal Year 2022 Focus
  - Funding Thoughts
  - Priority Based Budgeting Priorities and Objectives
  - Community Benefits
- Next Steps

Vice Mayor Daggett expressed her gratitude towards the Commission and addressed the lack of funding for ongoing maintenance of open spaces.

Councilmember McCarthy asked if wildlife corridors are taken into account by the Open Spaces commission. Mr. Wallace explained how the corridors are taken into account in planning of open space.

Councilmember Salas asked if there was a way to create a watchable wildlife experience in regards to Observatory Mesa, and how involved the commission is in the budget. Mr. Wallace stated that the commission is involved in Arizona watchable wildlife in partnership with Willow Bend. He also stated that the commission does provide recommendations on where to allocate operating budget and reviewed the two-line item requests the commission submitted to the budget team.

Councilmember Sweet expressed her gratitude.

Councilmember Shimoni also expressed his gratitude.

5. **Heritage Preservation Commission Council Update**

Comprehensive and Neighborhood Planning Manager Sara Dechter introduced Heritage Preservation Commission Chair David Hayward to give an update on the Heritage Preservation Commission. Slides Included:

- Commission Members and makeup
- Powers and Duties
- Flagstaff Zoning Code 10-30.30 Heritage Preservation
- Map of Overlay Districts
- Additional Duties
- Certified Local Government
- Work Program
  - Accomplishments January 2020 to March 2021
  - Current
  - Future
- Pre-World War II Subdivisions
- Recommendations to Council
- Concerns

Mayor Deasy thanked the commission for their work.

Councilmember Shimoni thanked the commission for their service and work.

Vice Mayor Daggett commended the commission for keeping the varied cultural history of Flagstaff in mind.

Councilmember Salas stated that the Council budget retreat is in a month and asked Ms. Dechter to put requests in the budget for historic preservation.

Councilmember McCarthy asked what the last picture in the presentation depicted. Ms. Dechter stated that it is a picture of La Plaza Vieja and the Armory.

6. Public Participation

None.

7. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Vice Mayor Daggett stated she was getting the second vaccine and the age for the vaccine recently lowered to 16. She thanked all volunteers who have helped with the cause.

Councilmember McCarthy stated that he went to the state transportation board meeting the week before.

Councilmember Salas stated she met with Senator Peshlakai and Senator Blackman. She also met with Representative Barton. She stated she is excited about getting the second vaccine.

Councilmember Shimoni stated the Mountain Line Board meeting was later that week. He stated he is getting the second vaccine soon. He reminded the community about the upcoming Athena Awards. He requested a COVID update. He also spoke of the Youth Hockey Teams.

Councilmember Sweet stated her appreciation to the teachers and staff for being back at school. She also congratulated the Athena Award nominees.

Mayor Deasy stated his wife has acquired 230,000 KN95 masks and wants to distribute them to the community, and they also offered some to President Nez as well.

City Manager Clifton spoke of the reentry issues and reminded Council the discussion was coming forward soon, he stated the plan was for the discussion to take place after Spring Break so the city can monitor cases over break before bringing forward a reentry plan.

8. Adjournment

The Work Session of the Flagstaff City Council held March 23, 2021, adjourned at 5:08 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATION

I, STACY SALTZBURG, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on March 23, 2021. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 6th day of May, 2025

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, APRIL 27, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

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2. Pledge of Allegiance and Mission Statement

The Council and audience recited the Pledge of allegiance and Vice Mayor Daggett read the Mission Statement of the City of Flagstaff.

MISSION STATEMENT

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

3. Roll Call

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

PRESENT:	ABSENT:
MAYOR DEASY (virtually)	COUNCILMEMBER MCCARTHY
VICE MAYOR DAGGETT (virtually)	
COUNCILMEMBER ASLAN (virtually)	
COUNCILMEMBER SALAS (virtually)	
COUNCILMEMBER SHIMONI (virtually)	
COUNCILMEMBER SWEET (virtually	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

4. Public Participation

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

Maggie Twomey introduced Marissa Molloy who spoke about littering.

Angelina Valenzuela, Christina Osterink, and Ralph Bardsley addressed Council with information about a recent school project.

Savanna Gray spoke about community gardens.

Karen Enyedy spoke about concerns regarding invasive weed management.

Leslie Pickard submitted a written comment in opposition to defunding the police. She requested additional funding be allocated to the department.

5. Review of Draft Agenda for the May 4, 2021 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

None.

6. Proclamation: Municipal Clerk's Week

Mayor Deasy read the proclamation.

7. Management Services Division Overview

Management Services Director Rick Tadder, Purchasing Director Patrick Brown, and Finance Director Brandi Suda introduced their sections and work programs. Mr. Tadder also spoke about the Revenue Section and their work program.

Slides included:

- Agenda
- Organization Chart
- Management Services Mission Statement
- Management Services Budget
- Administrative Section
- Purchasing Section Mission Statement
- Purchasing Section
- Finance Section Mission Statement
- Finance Section
- Revenue Section Mission Statement
- Revenue Section
- Management Services Division

Councilmember Aslan asked Mr. Tadder how collections have differed through the pandemic and when the City will be moving back into a normal phase. Mr. Tadder stated that the policy and practice is to not disconnect any water customer that has not paid, but rather work with customers with back billing to set up payment plans. He added that staff has created a flyer to identify resources for utility assistance to get out to the customers. The next stage is to discuss customers that have not made any effort to contact staff, but the goal is to keep the water on until the health of the community is ensured.

Councilmember Aslan asked if the plan will be brought back to Council and Mr. Tadder stated that he would bring it forward to Council, potentially in a Work Session. Councilmember Aslan asked what the impact to the budget has been with the payment plans and the delayed payments. Mr. Tadder stated that he will bring data forward to Council in May or June.

Councilmember Shimoni thanked staff for their presentation. He added that he supports bringing the plans regarding water cutoffs to Council.

Mayor Deasy added his appreciation.

8. City Manager Office Division Update

City Manager Greg Clifton presented to Mayor and Council on the City Manager's Office. He introduced Deputy City Manager Shane Dille and Deputy City Manager Shannon Anderson who discussed the programs they oversee. Mr. Clifton, Mr. Dille, and Ms. Anderson went over the City Manager's work program, budget, and management philosophy. Mr. Clifton introduced City Clerk Stacy Saltzburg who introduced her staff and gave an overview of her office. Ms. Saltzburg introduced Public Affairs Director Jessica Drum. Ms. Drum presented on the Public Affairs team. Ms. Drum introduced Coordinator for Indigenous Initiatives Rose Toehe to speak about the Indigenous Initiatives. Ms. Toehe introduced Director of Risk Manager Dean Coughenour who presented on the Risk Management program. Mr. Coughenour introduced Sustainability Director Nicole Antonopoulos who introduced the Sustainability Team and their work.

Councilmember Shimoni thanked Ms. Antonopoulos and her team for their great work.

Slides included:

- Organizational Chart
- City Management
- CMO Budget Allocation
- CMO Duties
- Misc CMO Areas of Focus
- Management Philosophies
- City Clerk -- Staff Introductions
- City Clerk Budget Allocation
- City Clerk Work Program
- City Clerk -- What's to Come?
- Public Affairs Team
- Public Affairs Budget
- Elected Official Support
- Office of Labor Standards
- Intergovernmental Affairs
- Communications
- Videography and Social Media
- NAU Neighborhood Liaison
- Indigenous Initiatives
- Indigenous Commission
- Risk Management
- Sustainability
- Sustainability -- Budget
- Sustainability -- Climate
- Sustainability -- Community Events
- Sustainability -- Community Stewards
- Sustainability -- Energy
- Sustainability -- Food Systems
- Sustainability -- Materials Management
- Sustainability -- What's to Come...

A break was held from 5:49 p.m. through 6:00 p.m.

9. COVID-19 Update

Deputy City Manager Shannon Anderson gave an update to Mayor and Council on the updated COVID data.

Slides included:

- Agenda
- Data Updates
- CCHHS: COVID-19 Weekly Cases
- CCHS: Hospital Admissions
- CCHHS: COVID-19 Related Deaths
- CCHHS: Community Transmission
- CCHHS: Community Vaccination
- NAH: Hospital Census
- Re-Entry Plan Discussion
- City's Monitoring Criteria
- Special Event Permits
- Re-Entry Plan: Event Permits
- Choosing Safer Activities
- Council Discussion

Zach Ellman asked Council if there was a firm date to open up events for outdoor events with the new CDC guidelines.

Jim Cross asked Council if there was a firm date set to open up events for outdoor events with the new CDC guidelines.

Matthew Ziegler thanked Council for continuing the discussion. He spoke about the challenges of planning outdoor events without a firm date for reopening and mentioned that he and other event planners have been looking outside of City limits to hold their events. He spoke about the new CDC guidance for outdoor events.

Chris Scully encouraged the Council to work with event planners for creating events this summer and offered some solutions to mitigate risk.

Councilmember Aslan asked Mr. Ziegler about vaccine passports and if he has any ideas on how to implement vaccine passports at an event like Hullabaloo. Mr. Ziegler stated that he would potentially ask people to bring their vaccination card to the event for entry. He stated that he is hopeful that it would not be necessary. Mr. Ziegler stated that he believes he has the right to require a vaccine for his private event. City Attorney Sterling Solomon stated that the governor preempted cities and towns for requiring a vaccine passport, but that does not preclude a private business from doing so.

Councilmember Aslan asked Mr. Ziegler if his planning for Hullabaloo is limited by crowd capacity limits. Mr. Ziegler stated that it is hard to sell event sponsorships if he is unclear on the event capacity. Councilmember Aslan asked how many participants Mr. Ziegler would expect at Hullabaloo this year. Mr. Ziegler replied that the capacity at Wheeler Park is 2,500, and the most they have had pre-pandemic was 2,200 at peak with about 5,000 people during the two-day event. Councilmember Aslan asked how the capacity calculator compares with that number. Councilmember Aslan stated that he believes that there is a path forward. Mr. Ziegler stated that even if Council allowed his event to go on with full capacity, he understands that there is a risk inherent with the decision and that he can cancel if things go poorly in the future.

Parks and Recreation and Open Space Director Rebecca Sayers stated that the capacity of Wheeler Park would be from 400 people to 531 using the current calculators.

Mayor Deasy asked Council their opinion on a July 1st opening.

Councilmember Shimoni stated that he is comfortable with reopening outdoor events on July 1. He added that he is comfortable with that date being earlier as well.

Councilmember Aslan stated that he is encouraged by the numbers he is seeing because they are stable. He addressed the CDC guidelines and how they impact large outdoor crowds. He added that the State of Arizona does not have a mask mandate and that the local municipality is preempted from one. He stated that a nice compromise would be to lift the capacities a bit and encourage event planners to require masks and adherence to CDC guidelines. He added that variants are created and

spread through crowds with mixed statuses of immunity. He stated that it is important to keep the tools at hand, such as the capacity calculator.

Vice Mayor Daggett stated that she is comfortable with a July 1 date for events to occur without capacity limits. She would ask event organizers to strongly encourage attendees to stay distanced.

Councilmember Salas referred to her notes from the meeting with Dr. David Englethaler and stated that she is comfortable moving forward with removing restrictions on capacity on July 1.

Councilmember Sweet stated that it is not an easy decision, but that opening events with no capacity limits as of July 1 is what she is comfortable with, but that she realizes that we might need to back pedal if things change.

Mayor Deasy shared a photo on the circulating variants over time. He stated that he is comfortable with a July 1 opening if the metrics are at a minimal transmission level on all three levels. If the metrics are not at the minimal levels, he would like to reconsider opening in June. He asked if Council is comfortable with that stipulation.

Councilmember Shimoni stated that he would like to talk about that later in the year, possibly in June. He stated that he believes he supports that, but that he would still consider moderate transmission.

Vice Mayor Daggett stated that she supports revisiting this in June if needed, but that she prefers to see what metrics are being used at that time.

Mayor Deasy addressed the masks and CDC options. He stated that he is in favor of Option 1 for both.

Vice Mayor Daggett asked for clarification. Ms. Anderson stated that the COVID mitigation efforts could stay in effect after July 1. Vice Mayor Daggett stated that she is in favor of Option 1 and to follow CDC guidelines.

Councilmember Aslan, Councilmember Shimoni, and Councilmember Sweet stated that the city should be following CDC guidelines.

Councilmember Salas stated she is in favor of following the CDC guidelines and would like to have a discussion on herd immunity in Coconino County with the County.

Councilmember Shimoni asked if CDC guidelines would request that events like the July 4th parade would require people to wear masks.

10. **Consideration of creating the proposed Neighborhood Community Commercial (NCC) zone with a maximum building height of 45 feet and the recommended process for the City Council to consider initiating applications to rezone certain areas of the Southside, North End, and Sunnyside neighborhoods to the zone if approved**

Zoning Code Manager Dan Symer presented on the creation of a proposed Neighborhood Community Commercial (NCC) zone for certain areas of the Southside, North End, Sunnyside neighborhoods.

Slides included:

- Purpose of the Work Session
- Reason for the Proposed Zoning Code Text Amendment
- Maps
- Recap of Previous Work Sessions and Public Comments
- Proposed Process
- Order of Neighborhood Implementation
- Questions to Consider

Councilmember Aslan asked Mr. Symer who is leading the process and expressed confusion about voting on the issue before public outreach. He noted that Sunnyside does not have a neighborhood plan yet, which should be a priority. Councilmember Aslan emphasized that all three neighborhoods

should be treated equally and questioned why the Southside was allowed to move forward with limitations while other neighborhoods were not. He expressed discomfort with moving forward in the current process, stating he was very confused.

Mr. Symer explained that the process stems from the Council's adoption of a policy strategy, which included reducing the height limit from 65 feet to 45 feet. After adopting the Southside Neighborhood Plan, these policies were implemented. The recommendation is to conduct public outreach in individual neighborhoods rather than as a group. If the Southside is the only neighborhood ready to proceed, zoning must be in place before moving to the next neighborhood.

Councilmember Aslan questioned why Sunnyside would be last, to which Mr. Symer responded that Sunnyside lacks a neighborhood plan, making it the hardest area for effective outreach. He suggested waiting for warmer weather to start outreach there, as many residents do not have access to computers, and it would be the most expensive outreach effort.

Comprehensive Planning Manager Sara Dechter provided additional context on the High Occupancy Housing measure, noting its connection to the 45-foot height requirement. She mentioned that Sunnyside has more potential for development within the zone.

Mr. Symer added that once the new NCC zone is created, property owners can rezone independently without the city's involvement, giving them the option to initiate rezoning themselves.

Tyler Denham addressed Council in opposition of the plan. He stated that he would sue under Prop 207 if his property is downzoned.

Councilmember Aslan asked Mr. Denham to clarify if he was in Sunnyside or Southside and he confirmed the Southside. Councilmember Aslan asked Ms. Dechter about the adopted plan on the Southside. Ms. Dechter confirmed the current Southside plan includes downzoning.

Sat Best addressed Council and stated that the plan is a step in the right direction for view sheds. He is in support of the plan.

Michele James with Friends of Flagstaff's Future stated that they support the plan.

Marie Jones stated that she supports the plan.

Councilmember Shimoni expressed a desire to consult with the legal team before discussing the issue further.

Mayor Deasy asked if Council needed to direct staff to proceed with public outreach. Mr. Symer clarified that the process involves two steps: adoption and then public outreach in each neighborhood. Creating the zone allows property owners to rezone independently, but the zoning must first be established.

Councilmember Aslan inquired about the waiver process for property owners in the neighborhoods. City Attorney Solomon suggested discussing this in an executive session. Senior Assistant City Attorney Christina Rubalcava noted that while staff is focused on creating a zone, the zoning would not apply to any properties immediately, and Prop 207 would apply later if adopted.

Mayor Deasy called for an Executive Session on the matter at a later time.

Councilmember Shimoni expressed support for the direction and encouraged thinking creatively to engage with local community groups and restaurants.

Vice Mayor Daggett, Councilmembers Aslan, Sweet, and Salas all expressed support for moving forward, though Councilmember Salas raised concerns about outreach to specific neighborhoods and the potential for litigation.

Mr. Symer explained that there had been informal outreach with community organizations and property

owners, with suggestions to avoid winter and fall for outreach efforts and to gather additional public comments as the process progresses.

A break was held from 7:51 p.m. through 8:00 p.m.

11. Requests for Abandonment of Public Right-of-Way on Hoskins Ave. - FUTS and Parking Discussion

Real Estate Manager Bryce Doty and Transportation Planner Martin Ince presented to Mayor and Council to inform about the abandonment process and to discuss conditions on Hoskins Avenue.

Slides included:

- Vicinity Maps
- Existing Conditions
- Flagstaff Regional Plan 2030
- Draft Active Transportation Master Plan
- Potential Future Use
- Existing Conditions
- Future Use Overlay
- ROW Abandonment Requests
- Request #1
- Existing Encroachments
- Request #2
- Request #3

City Manager Clifton explained that two of the three requests for right-of-way (ROW) vacations originated from the previous Council, who had met with property owners and neighbors. There is a need to carefully consider the relinquishment of ROWs, especially with anticipated future requests from neighbors.

Community Development Director Dan Folke clarified that this discussion was informational, as there had not been a formal process for these requests before. Previously, they went to a staff committee, but now a formal application process will be created. Requests will go to the Planning and Zoning Commission and then City Council.

Councilmember Aslan inquired whether a solution could be found to maintain the FUTS (Flagstaff Urban Trail System) path while offering the ROW vacations. Mr. Folke preferred to plan the facilities first and then consider vacating the ROW. Mr. Ince agreed, emphasizing the importance of maintaining connectivity with FUTS and balancing choices like on-street parking and a cycle track. He supported the ROW abandonments but stressed that future planning should take precedence.

Councilmember Aslan shared his observations from a site tour, noting a brick wall and telephone poles that impede the ROW. He believed that the ROW seemed unnecessary to keep and supported moving forward with all three requests.

Mayor Deasy asked if the ROW vacation process was open only to the requesters, to which Mr. Folke confirmed that the City Council sets the sales price and the requester has the first right of refusal.

A formal request will be presented at the next meeting.

12. Public Participation

None.

13. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember Sweet reminded the community of the Beautification and Action grants available to community members.

Councilmember Shimoni reminded the community of the joint meeting with County at 4 p.m. virtually that week.

Mayor Deasy stated it was Water Conservation Month and urged the community to take the water pledge. He also spoke of the nurses week nominations.

14. Adjournment

The Work Session of the Flagstaff City Council held April 27, 2021, adjourned at 8:31 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

JOINT FLAGSTAFF CITY COUNCIL / COCONINO COUNTY WORK SESSION
WEDNESDAY, APRIL 28, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Chairman Ryan called the Joint Meeting of the Flagstaff City Council and the Coconino County Board of Supervisors to order at 4:02 p.m.

2. Pledge of Allegiance and Mission Statement

The Flagstaff City Council, the Coconino County Board of Supervisors, and the audience recited the pledge of allegiance. Mayor Deasy read the mission statement of the City of Flagstaff.

MISSION STATEMENT

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

3. Roll Call

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

PRESENT:	ABSENT:
CHAIRMAN RYAN	
VICE-CHAIRWOMAN FOWLER (Arrived at 4:06 p.m.)	
SUPERVISOR BEGAY	
SUPERVISOR HORSTMAN	
SUPERVISOR VASQUEZ	
MAYOR DEASY	
VICE MAYOR DAGGETT	
COUNCILMEMBER ASLAN	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SALAS	
COUNCILMEMBER SHIMONI (Left at 6:42 p.m.)	
COUNCILMEMBER SWEET	

4. Public Participation:

Public Participation enables the public to address the Council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment on an item that is on the agenda is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak.

None.

5. COVID-19 Update

Coconino County Health and Human Services Director Kim Musselman presented up-to-date information about the COVID-19 vaccination efforts. Ms. Musselman spoke about the importance of getting vaccinated.

Slides included:

- Coconino County COVID-19 Data Update
- Coconino County Vaccination Visualization
- Recent Recommendations for Fully Vaccinated People
- Northern Arizona Regional POD
- Coconino County Vaccination Effort
- Current Vaccine Providers in Flagstaff
- Vaccine Outreach
- Vaccine Access, Hesitancy, Convenience
- Mitigation, Testing & Vaccination

Chairman Ryan stressed the importance of vaccines.

Mayor Deasy stated he is excited that people can walk-in to receive their vaccine and that he appreciates Ms. Mussleman's leadership and work.

Supervisor Horstman shared how pleased the community members are with the vaccination and testing efforts. She added that "the easy part" is over and the hard work now begins to get everyone vaccinated. She added that the mobile units will be helpful and that the Supervisors are going out into the community to spread the word on the importance of getting the vaccine. She also pointed out that getting the business community involved is helpful to gain incentives.

Councilmember Shimoni stated that he is grateful for the County's leadership. He shared his recommendations on videos for promotion and supports working with the business community for promotion and incentives.

Supervisor Vasquez thanked Ms. Musselman for her leadership and stated that he supports the efforts to promote the vaccine.

Chairman Ryan spoke about the incentivizing of the vaccine and the importance of vaccinations and safety practices to fend off the virus variants.

6. Overview of City's response to passage of Smart and Safe Arizona Act (Prop 207), which legalized recreational marijuana

Deputy City Attorney Kevin Fincel gave a presentation on the "Smart and Safe Arizona Act." Slides included:

- Objectives
- History
- Key Provisions
- Enforcement Issues
- Ordinance 2021-03

Chairman Ryan stated that the County is still looking at guidance from DHS for impacts to areas of their purview.

Vice-Chairwoman Fowler asked how staff, like the health department, the attorneys, and the Police Department, are coordinating and working together. Mr. Fincel stated that he would suggest speaking to the individual groups and is a better question for Chief Musselman and the prosecutor's office. He also stated that regulations from DHS have been established.

Vice-Chairwoman Fowler asked how the community will be informed on the new regulations. Mr. Fincel explained the City's outreach thus far and added that the new regulations are moving quickly but have mostly been focused on distribution at this point. Vice-Chairwoman Fowler asked how compliance with smoking in a vehicle would be enforced. Chief Musselman stated that training with Flagstaff Police Department has been doneand that they share the training information with other agencies as needed. She added that it seems like a challenging task to identify illegal marijuana use in a vehicle.

Councilmember Aslan asked the County if they have any updates or a summary about other cities and towns in the County and what they are doing in regards to regulation and testing. Deputy County Manager Joanne Keene stated that they have not heard anything from the jurisdictions in the County and that they do not know of any towns that have adopted any ordinances like Flagstaff. The County is looking at their personnel policy and they are comfortable with their current zoning. On the health side, they are looking to DHS for guidance at this time. Ms. Musselman added that they have not had any other municipalities reach out to them at this time and they are waiting for guidance from AZDHS. Councilmember Aslan stated that it is interesting that Flagstaff seems to be ahead of other municipalities. Mr. Fincel added that Flagstaff is the first in the County, but not in the state and that this is tied to medical marijuana licenses. He explained the licensing process of the state.

7. Impacts of the 2019 Museum Fire and the Post Wildfire Flood Threat Analysis and Impacts to Downstream Communities

Public Works Director Andy Bertelsen, Deputy County Manager & Public Works Director Lucinda Andreani, Public Affairs Director Jessica Drum, Flood Control District Engineer Christopher Tressler, Project Manager Edward Schenk, and Joe Loverich from JE Fuller provided a presentation on post wildfire flood threat analysis.

Slides included:

- 2010 Post-Schultz Fire Flooding
- 2019 Museum Fire Flood Risk Assessment
- Museum Fire
- Museum Fire Soil Burn Severity
- Post-Wildfire Flood Risk Modeling
- 2021 Museum Flood Risk Modeling Validation
- Realtime Precipitation and Flow Monitoring
- Rainfall Stations within Schultz and Museum Fire Watersheds
- Flagstaff Monsoon Rainfall since 1951
- 2018 through 2020 Rainfall Totals
- July 24, 2020 Rainfall & 2" Model Validation
- Rainfall Examples from Schultz
- Current Condition of the Museum Fire Burn Scar
- Watershed Conditions February 2020 and November 2020
- Watershed Conditions November 2020
- Consensus Regarding Flood Threat
- Consensus Regarding Flood Mitigation Measures
- 2021 Museum Flood Mitigation Shore-Up -- Beginning in the middle of May
- 2021 Shore-up of Flood Mitigation Measures
- Communications Plan Highlights
- Key Messages
- Key Channels & Audience
- Communications Timeline

Councilmember McCarthy asked if it would be redundant to send out notifications with water bills. Ms. Andreani stated that it was a good suggestion.

Supervisor Vasquez stated that he wanted to know about the Sunnyside mitigation at the Dortha corridor and if there were any plans by the City. Mr. Bertelsen stated that some sort of flood mitigation is needed because of the channel running through the corridor and it will be addressed by the

Stormwater group later in the presentation.

Councilmember Shimoni commented that the videos should have descriptions of the talking points or substance to allow the public to know what they are clicking on.

- 2019 Immediate Post-Fire Flood Mitigation Campaign
- 2019 Flood Mitigation Campaign
- 2020 Museum Flood Mitigation Refresh
- City of Flagstaff Long-Term Mitigation Efforts
- COG Ongoing and Planned Mitigation
- Cross-Vein Weirs & Spruce Wash Channel Dredging
- Linda Vista Culvert Upsizing & New Debris Pollards
- Flood Control District Long-Term Mitigation Efforts

Mr. Bertelsen acknowledged the work that went into the presentation and thanked staff for their work on the project.

Supervisor Vasquez asked if the Dortha corridor will eventually reopen and what the long-term plans are. Mr. Schenk stated that the plan was never to close it permanently and that City staff is working with SWI to reopen the road responsibly. They are working on reconfiguring the road without changing the flood protection.

Ms. Andreani thanked everyone for their worked and stated that she is pleased with the partnership.

Chairman Ryan stated his appreciation for using the science behind the planning. He stressed the importance of flood insurance.

8. Discussion on Coordination of the Flagstaff Regional Plan 2045

Comprehensive Planning Manager Sara Dechter led a discussion on coordinating the Flagstaff Regional Plan 2045.

Slides included:

- Work Session Objectives
- Why is it a "Regional Plan?"
- Regional Plan/Metroplan Boundaries
- The Next Regional Plan
- Phase 1
- Phase 2
- Phase 3
- Phase 4
- Resources for FY 2022
- Joint Board of Supervisors and City Council Discussion

Jeff Meilbeck, MetroPlan Executive Director, submitted a written comment in appreciation for the coordination of efforts from the City and County on the Flagstaff Regional Plan 2045

Mayor Deasy thanked Ms. Dechter for her work and stated that he likes the plan for public engagement that was presented a few weeks ago to the City Council.

Chairman Ryan spoke about the timeline for beginning the process.

Councilmember McCarthy noted that he was on the Planning and Zoning Commission for the City during the last regional plan. He stated he is concerned about public participation due to the many conflicting opinions. He added that the plan has begun which is good and wants to ensure it ends up being something the City and County can agree to.

Vice-Chairwoman Fowler stated that she would like to see a more diverse community input than in previous years. She stated that she wants to see the "color" in the plan and she does not want to limit

who we hear from.

Councilmember Shimoni added that Ms. Dechter is the right person to add more diversity to the public participation, especially considering her work with the Southside plan. He also suggested bringing the plan to the City and County Boards and Commissions.

Chairman Ryan spoke about the previous plan and expanded on the challenges of the plan. He stated that what Ms. Dechter is good, but that he is hesitant on an advisory group due to the time commitment.

Supervisor Vasquez stated that he has a greater appreciation for the scope of these plans and hopes to bring more diversity to the public participation as well.

Ms. Dechter added that the Board of Supervisors and the City Council will have many opportunities to give input on the plan over many meetings in the future.

9. Report on the Jointly Funded Dark Sky Specialist Position

Community Development Director Dan Folke gave an update on the shared Dark Sky Specialist position. He referenced the report that Dark Sky Specialist Mark Stento prepared that was available in the agenda packet. The report included information on the Dark Sky Work Program and the accomplishments of the position. He added that staff will be presenting a new IGA to the County Board of Supervisors and to City Council.

Councilmember Aslan stated that he believes that the dark skies are very important to the City of Flagstaff. He asked Mr. Stento how people respond to him. He spoke about the critical work of the Naval Observatory. He also added that he would like to see the effort extend throughout the whole region for a dark sky preserve.

Mr. Stento stated that the department agrees with Councilmember Aslan about extending the dark sky region and that he has met with many partners throughout the region. He added that staff thinks the effort is going very well, but that they are seeing inexpensive, bad-for-dark-skies fixtures added to the outsides of residential homes. The commercial side is going well. He added that the materials being developed by the JLUS grant will help. There has been a substantial impact in the City and he just closed a case in Page where they removed 150,000 lumens of white light and replaced it with about 80,000 lumens of amber light.

Chairman Ryan added that staff has done a great job with the program and that he appreciates the successes Mr. Stento has had with corporate entities. He stated that he will continue to advocate for the relationship.

Councilmember McCarthy spoke about natural quiet at the Grand Canyon and that he sees a lot of parallels between the preservation of natural quiet and the preservation of dark skies. He stated that he supports the effort.

Supervisor Hortsman thanked staff for their work and advocacy in protecting dark skies.

10. Informational Items To/From Chairman, Supervisors and County Manager, Mayor, Council and City Manager

Councilmember McCarthy stated that he has enjoyed working with Chairman Ryan and the whole Board.

Councilmember Aslan thanked everyone for meeting. He added how important it is to keep the communication and relationship between the two entities and that this was a productive meeting.

Councilmember Salas shared her appreciation to staff and all elected officials. She added how important advocacy is.

Vice Mayor Daggett shared her appreciation and her gratitude for the meetings.

Councilmember Sweet stated that she enjoyed the meeting and that she looks forward to meeting everyone in person.

Vice-Chairwoman Fowler expressed her gratitude for the collaboration between the City and the County. She spoke about the Navajo Bridge Star Party that they hope to host in October this year. She also spoke regarding a regional dark sky reserve and mentioned that the lake in Page is very low which might impact tourism. She mentioned that the North Rim will open soon and there are discussions regarding keeping the North Rim open all year, which would have a huge economic impact.

Supervisor Hortsman expressed her gratitude for the partnership.

Supervisor Vasquez expressed his gratitude for the meeting and partnership and appreciated the City's perspective, especially on the Museum Fire flood mitigation efforts.

Mayor Deasy stated his appreciation for the meeting. He congratulated Supervisor Vasquez for joining the Board of Supervisors. He stated that there are three days left for the Mayor's Water Challenge and that there is a nurse's appreciation event upcoming next week. He stated that he is looking forward to discussions about broadband in the region and a care center. He thanked Chairman Ryan for running the meeting.

Chairman Ryan stated that the joint meetings are great opportunities and that he cannot wait to get back in person. He stressed the importance of people getting vaccinated. He added that he appreciates the relationship with the City.

11. Public Participation

None.

12. Adjournment

Chairman Ryan adjourned the Joint City Council/Board of Supervisors meeting at 7:20 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, NOVEMBER 23, 2021
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Deasy called the Work Session held November 23, 2021, to order at 3:01 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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.

PRESENT:	ABSENT:
MAYOR DEASY	
VICE MAYOR DAGGETT	
COUNCILMEMBER ASLAN	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SALAS	
COUNCILMEMBER SHIMONI	
COUNCILMEMBER SWEE	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon

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

The Council recited the Pledge of Allegiance, Councilmember McCarthy read the mission statement, and Vice Mayor Daggett read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. Public Participation

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work

session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

Liz Hewat representing the Downtown Business Alliance addressed Council regarding the holiday season events. She invited Council and the public to the holiday celebration on December 4, 2021 starting at 3:00 p.m. and added that there will be three Pinecone drops on New Year's Eve.

5. Flagstaff Pulliam Airport Paid Parking Program

Airport Director Barney Helmick and Management Services Director Rick Tadder addressed Council on the plans for the paid parking program at the Flagstaff Pulliam Airport.

The presentation included the following slides:

- History of Current Terminal Lot
- Benefits of Parking Program
- New Terminal Economy Lot
- Electric Vehicle Charging Stations
- Airport Parking Rates Outreach
- Benefits of Paid Parking
- New Terminal Economy Lot
    - New lot will offer
    - Costs
- Financial Plan
- Proposed Parking Rates
- Sequence of Events

Councilmember McCarthy asked about the new charging station parking, inquiring if the electricity would be free. Mr. Helmick confirmed it would be free initially to encourage usage, with a 12-month evaluation period to determine future fees. He also addressed questions about time limits for spaces, proposing a three-hour limit, and said APS is providing input. Councilmember McCarthy further inquired about bicycle parking, which will include existing bike lockups and indoor lockers.

Councilmember Shimoni raised concerns about the sidewalk design for accessibility, which Mr. Helmick assured was flush-mounted and reviewed by relevant commissions. Councilmember Shimoni also asked about the availability of additional EV spaces, with Mr. Helmick noting six current spaces, and mentioned the possibility of expanding. Regarding Mountain Line service to the airport, Councilmember Shimoni questioned what the first steps would be. Mr. Helmick suggested Mountain Line could start now but did not believe there was enough current demand.

Councilmember Aslan asked about the enforcement of the parking plan, which would be handled by Park Flag. He also questioned whether the airport parking fees were set high enough to be beneficial. Mr. Helmick explained that FAA regulations require airport earnings to stay at the airport, and a $2/hour rate was determined to be appropriate after evaluation. Councilmember Aslan also inquired about the flexibility of the parking system, which is based on license plates.

Councilmember McCarthy expressed support for a free first hour, especially for passenger pick-ups, and praised the airport's enterprise model. Mayor Deasy noted that the art and beautification components would be presented in December.

Councilmember Salas thanked the staff for their work on the airport and parking program, highlighting its benefits for both residents and business travelers. She also asked about outreach to the business community regarding long-term parking options, and Ms. Hansen confirmed that an airport website with parking and other updates would be launched soon.

6. Museum Flood Mitigation Plan - Citizen Petition

Deputy City Manager Shannon Anderson led the discussion with Council on the Museum Flood Mitigation Plan in response to a Citizen's Petition. Interim Water Services Director Andy Bertelsen, Streets Section Director Sam Beckett, Stormwater Manager Ed Schenk, Interim Public Works Director Scott Overton, and Development Engineer Gary Miller also presented. The slides included in the discussion presentation included:

- Citizen Petition
- Agenda
- Mitigation Plan Updates
- Mitigation Update
    - Natural Resource Conservation Service (NRCS)
    - NRCS Concept Design
    - Paradise Channel Stabilization and Restoration
    - Dortha Inlet & Channel

Mayor Deasy asked if the construction costs have increased or if more work has been added. Mr. Schenk stated that it was a bit of both.

Vice Mayor Daggett asked if the money is already budgeted and if the design should be completed soon. Mr. Schenk stated that the money is budgeted and that the desire is to have the design completed before the monsoon season.

    - Killip Detention Basin
    - Flooding Feasibility Alternative Analysis
- Funding of Mitigation
- Communication with Residents

Dawn Rodriguez addressed Council about the difficulties she had working with staff and with her home. She stated that she is leaving Flagstaff and she added that the request tracker is not working. She suggested having a liaison to help the public navigate permits and fixing their homes.

Vice Mayor Daggett asked Ms. Rodriguez to elaborate on her calls to the Call Center and how they were tracked. Ms. Rodriguez stated that they do not have flood insurance and cleaned up their house in three days. They called the call center Friday night and asked where the street cleaner was and she was told that the roads were too busy. She stated that she added a privacy fence to prevent the police from going into their property and also reported it to the Call Center but did not have any follow up.

Sharon Tewksbury-Bloom addressed Council representing herself and the petitioner. She implored Council to listen to everyone affected and the experts. She stressed asking the critical questions like reframing the problem and focusing on making the neighborhoods safer during monsoon seasons. She provided ideas for mitigation.

Councilmember Shimoni stated that he appreciated Ms. Tewksbury-Bloom being here and that he hopes her and her neighbors stay engaged.

Councilmember McCarthy asked about trash cans. Ms. Tewksbury-Bloom stated that the first round of trash cans lost to flooding were charged to the residents.

Councilmember Sweet suggested whether a liaison would assist Ms. Tewksbury-Bloom, who explained that improvements are needed in the system to address issues more efficiently. She highlighted problems with the County's Call Center, which was not equipped to handle issues like lost trash cans but was intended for more urgent matters like sandbags. Additionally, the email address for communication was not properly set up initially, and a system needs to be tested and staffed. She also mentioned that the public information officer (PIO) should have better communication, following the same protocols as disaster response.

Vice Mayor Daggett asked about having a single point of contact for questions. Ms. Tewksbury-Bloom responded that while it could involve more than one person, there should be one primary contact. She also suggested that a PIO could help disseminate information while staff connects residents to services.

An ombudsman would be beneficial for residents who feel mistreated by City staff. Ms. Tewksbury-Bloom shared her experience of having her call returned within 24 hours, though her incident was misclassified, preventing her from getting proper assistance. She confirmed there were issues with calls not being logged, hence the suggestion for a ticketed system. She also recommended simplifying web addresses for easier access.

Bea Rodriguez, addressed Council and stated that no one knows what work is being done on Dortha and the APS poles need to be replaced by concrete. She added that her home is on a down grade.

Ramiro Rodriguez addressed Council asking for a bridge in Sunnyside and addressed the alley.

Betty Hernandez addressed Council with suggestions for issues on Dortha.

Jennifer Beltz, Kurt Deawz, Megan Kelly, and Tara Roark submitted written comments in support of the requests within the petition.

Vice Mayor Daggett thanked staff for their work and the updates. She asked about the Dortha project, originally expected to be completed by the end of the year, and was assured it would be done before the monsoon season. Mr. Clifton explained the project's delays due to design changes. He also provided updates on funding for the Dortha Channel and Killip detention basin projects, both high priorities, with other projects being considered for bond funding.

Vice Mayor Daggett inquired about resident notifications, such as bulletin boards, and suggested a liaison for better communication. Mr. Clifton stated that staff had been meeting with residents through larger and smaller group sessions and would explore additional outreach efforts like bilingual flyers and continued website updates. Councilmember McCarthy acknowledged the disconnect in communication and asked about funding for mitigation projects, including sandbag removal and forest service mitigation.

Councilmember Shimoni suggested monthly work sessions to discuss updates and a communication strategy, while Councilmember Aslan emphasized the need for equitable climate mitigation. Councilmember Sweet stressed the importance of effective communication in future meetings. Mayor Deasy requested regular updates on large-scale flooding mitigation efforts and questioned funding sources, including the infrastructure bill. Grants, Contracts, and Emergency Manager Stacey Brachler-Knaggs assured that the feasibility study would support grant applications.

Councilmember Salas shared her personal experiences with flooding and expressed a desire for collaboration between residents and officials. Mayor Deasy highlighted the necessity of testing sirens before the monsoon season, with funding potentially available from DFFM. Councilmember Aslan raised concerns about residents taking matters into their own hands, and staff agreed to discuss this further in the next meeting.

7. Public Participation

None.

8. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember Salas requested Mr. Clifton to include updates on commissions meeting in hybrid/in person meeting during next COVID/Re-entry update.

Councilmember Sweet suggested moving agenda items on the next few meetings due to staff availability. Mr. Tadder stated the airport parking would need to stay on its scheduled date and Mr. Clifton stated staff could work on reworking the agenda.

Councilmember McCarthy stated he recently attended the Pedestrian Advisory Committee meeting.

Mayor Deasy shared that he has multiple FAIR requests and requested a discussion on an apprenticeship program for contracts. He also requested a discussion of ongoing litigation related to permits. Additionally, he mentioned reviewing the Municipal Equality Index, which has consistently

received a score of 88 out of 100 for the treatment of LGBTQ+ individuals over the past six years. City Clerk Stacy Saltzburg clarified that a review of the the Municipal Equality Index is scheduled for the next month.

Councilmember Shimoni shared updates on various meetings and initiatives. He mentioned that the NACA's ribbon cutting was moved to a new location. He attended an ADOT Board Meeting, where he made public comments, followed by a follow-up meeting with City and ADOT staff. Positive news was shared regarding efforts to narrow lanes on Milton to create space for shoulders and improve pedestrian safety at South Plaza Way. He also attended a Mountain Line Board meeting discussing a tax district for NAH and participated in a feasibility discussion for Elevate Pre-K, expressing his admiration for their efforts.

Councilmember McCarthy attended an event the previous week where a proclamation protecting transgender rights was read.

9. Adjournment

The Work Session held November 23, 2021 adjourned at 6:08 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL SPECIAL MEETING / WORK SESSION
TUESDAY, MARCH 29, 2022
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Deasy called the work session of the Flagstaff City Council held March 29, 2022, to order at 3:00 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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.

PRESENT:	ABSENT:
MAYOR DEASY	
VICE MAYOR DAGGETT	
COUNCILMEMBER ASLAN	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SALAS	
COUNCILMEMBER SHIMONI	
COUNCILMEMBER SWEET	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember McCarthy read the Mission Statement of the City of Flagstaff, and Vice Mayor Daggett read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. Public Participation

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

Cristy Zeller, Owen Josefchuk, and Havoc Thornton from Haven Montessori addressed Council regarding the Poo in the Park program.

Water Services Management Analyst Lisa Deem and Megan White from Flagstaff Water Services addressed Council and furthered explained the Poo in the Park program.

Water Conservation Manager Tamara Lawless addressed Council regarding Water Conversation month and the festivities associated with the month including the Mayor's Water Conservation Challenge.

5. Review of Draft Agenda for the April 5, 2022 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

Councilmember Salas requested a report on the Schultz Pass property be shared with Mayor and Council before next week's meeting when they discuss the property.

6. City Manager Report

City Manager Greg Clifton highlighted his report including publishing a notice of the potential primary property tax rate increase.

Councilmember McCarthy stated that he does not have an opinion on raising the primary tax rate, but he supports putting the public notice out so that Council can make a decision on the tax rate.

Mayor Deasy stated that he is not interested in putting out the public notice.

Vice Mayor Daggett asked if the tax rate was increased last time when the notice was published. Mr. Clifton stated that it was not. Vice Mayor Daggett stated that she is not interested in posting the notice.

Councilmember Sweet stated she is in support of publishing the notice.

Councilmember Salas and Councilmember Aslan stated they were not interested in publishing the notice.

Councilmember Shimoni stated that he would prefer to have the option, but believes it is moot at this point.

Councilmember McCarthy stated that he is disappointed that a discussion on this topic will not occur.

Interim Deputy City Manager and Economic Development Director Heidi Hansen highlighted the Economic Development report. Highlights included snow removal at the airport, an airport shuttle service, the increase in enplanements, the new art at the juvenile court, Park Flag improvements, the VIP parking, economic development updates, updates on the Library and the Wonderbooks grant, and

an update on tourism and Discover Flagstaff.

Councilmember Sweet thanked Ms. Hansen and her team for their hard work.

7. **A robust workforce development system: the creation, the functional operations, and the possibilities.**

Business Retention and Expansion Manager John Saltonstall, Mr. Billy Francis the CEO of the Workforce Development Board, and Mr. Aaron Tabor, the Chairman of the Workforce Development Board presented to Council about the federal legislation known as the Workforce Innovation and Opportunity Act (W.I.O.A.). Their PowerPoint presentation covered the following:

- All Roads Lead to W.I.O.A.
- General W.I.O.A. process
- W.I.O.A. Four Core Programs
- Title IB
- Title II
- Title III
- Title IV
- Cradle to Career
- Facilitating Workforce Wins

Mr. Francis expanded on what the Workforce Development Board does and how best to include W.I.O.A. in the community.

Councilmember Sweet asked how businesses find out about the W.I.O.A. and their services. Mr. Francis expanded on his plan for advertising the services.

Vice Mayor Daggett asked what the top items are that Mr. Francis will start with. Mr. Francis spoke about how he plans to build his team and then put more money into the workforce through employer training. Mayor Daggett also asked if there is a web address employers should go to. Mr. Saltonstall stated that the Economic Vitality staff and Discover Flagstaff will help get this information out to the community.

Councilmember Salas spoke about the past meetings of all the partners of the Arizona Workforce and her hope to revive those efforts. She also spoke about the successes of the Workforce Development Board. She asked about an apprentice training center in Flagstaff and Mr. Francis stated that he will follow up with her on it. He expanded on other services as well.

Councilmember Shimoni asked Mr. Francis about Working Alternatives and spoke about what their mission is and he asked for Mr. Francis' help with the group. Mr. Francis stated that W.I.O.A. would be interested in helping the group.

8. **Butler-Fourth Improvements (Butler Avenue Widening) Scope Discussion**

Project Manager Jeremy DeGeyter and Acting Capital Improvements Engineer Trevor Henry provided a PowerPoint presentation that covered the following:

- Butler-Fourth Improvements Project Location Map
- Project Background
- Preliminary Proposed Cross Section
- Current Proposed Cross Section
- Project Considerations
- Project Chartering and Scoping
- Project Schedule
- Next Steps

Deputy General Manager Kate Morely from Mountain Line addressed Council in support of the project and expanded on the bus service in the area.

Anne Wicki addressed Council regarding the sidewalks on Butler and was in support of the project, she hopes that handicapped design would be involved in this development.

Councilmember Aslan asked Mr. DeGeyter to comment on how Council conversations have impacted the current intersection design. Mr. DeGeyter stated that the roundabout, pedestrian, and bicycle designs were all impacted by Council discussions.

Councilmember McCarthy asked about the roundabout by Little America. Mr. DeGeyter stated that there will be some traffic restrictions on the roundabout for safety. Councilmember McCarthy asked why staff is proposing a roundabout rather than a standard intersection since they may be problematic for pedestrians and drivers. Mr. DeGeyter stated that staff wants to investigate if a roundabout is a viable option, and that pedestrians and bicycle traffic will be considered in the study.

Councilmember Shimoni stated that he likes the bike infrastructure in this plan. He asked about the underlying values or priorities in the decision making of the draft of this project. Mr. DeGeyter stated that staff has had a complete streets approach for the past years. Staff is trying to be proactive while advancing this project.

Councilmember Shimoni expressed his gratitude to staff for adapting and doing well during this transition time. He asked how this project can be aligned to the CAAP, ATMP, and the Regional Plan. Mr. DeGeyter stated that all the plans will be taken into consideration in the plan and that the planners will be working with the other partnered departments to incorporate the plans into the design.

Councilmember Shimoni asked if all options of expanding Butler could be explored. Mr. DeGeyter stated that this is staff's intention. Councilmember Shimoni addressed right-sizing and how that relates to this project. He also thanked Ms. Anne Wicki for her public comment and stated that he is concerned about large roundabouts. He added that he would like to see transit prioritized for walkers and bikers.

Councilmember Sweet asked how we are ensuring that transit is in the conversation now. Mr. DeGeyter stated that staff was in contact with Mountain Line this morning and that staff is working with Mountain Line to ensure that they have a voice in the project.

A break was held from 4:44 p.m. through 5:30 p.m. and Councilmember McCarthy left the meeting.

9. THIS ITEM WILL OCCUR NO EARLIER THAN 5:30 P.M.

Flood Project Updates

Water Services Director Andy Bertelsen, Project Manager Julie Leid, Streets Director Sam Beckett, Public Affairs Director Sarah Langley, Public Works Director Scott Overton, Senior Project Manager Christine Cameron, Stormwater Manager Ed Schenk, Real Estate Manager Bryce Doty, and Deputy County Manager and Flood Control Administrator Lucinda Andreani provided a PowerPoint presentation that covered the following:

- Feasibility Study
- Cedar to Dortha Channel and Inlet
- Killip School Regional Detention Basins
- Killip Inlet at Ponderosa Park
- Ponderosa Park barriers
- Siren System

Councilmember Aslan asked if the sirens have 360-degree coverage. Mr. Beckett stated that they will and that they are 2400 watts each that can be adjusted for the best coverage. Councilmember Aslan asked if there are points placed on a map yet. Mr. Beckett stated that the vendor is creating a new map based on GIS mapping. Mr. Beckett added that the sirens will look like the ones in the picture in the presentation.

- Spring 2022 sandbag refresh

Vice Mayor Daggett urged staff to publicize the dates for the sandbag refresh information as soon as they have them.

Mayor Deasy asked if the locations of the residents who were elderly or needed assistance was logged. Mr. Beckett replied that they are confidentially logged for certain staff to follow up on, but that the information will not be shared. Flooding staff will do an evaluation of the neighborhoods which will help with ensuring that the requests for service are fulfilled. Mayor Deasy asked when the volunteer days are expected to start. Mr. Beckett stated that he hopes that they will be kicked off between late April and June. Mayor Deasy suggested having an NAU specific volunteer day, focusing especially on athletics.

- Park Way Sediment Basins

Ms. Andreani addressed the other projects that the County is working on that are higher priority than the Park Way Sediment Basins and stated that the focus is getting the most amount of work done to reduce sediment. She also addressed the challenges of the sediment basins and the agreements that are needed to develop them. Mr. Bertelsen stated that Mark Reavis received a letter from the Heritage Preservation Society and that staff is determining if the letter can be signed administratively or if it has to come to Council for a 404 permit.

Vice Mayor Daggett asked about the tracking of phone calls at the call center and how concerns will be followed up on. Ms. Andreani spoke about the process of staffing the call center and that the call center will be using the SalesForce software that is being supported by Postal Cloud. She stated that any staffer can use the needs form. She stated training will be done with call center staff. Ms. Andreani stated that there is a list of people who requested service previously and the intent is to reach out to them proactively.

- Communications

Sharon Tewksbury-Bloom addressed Council regarding the 2022 Sandbag Refresh. She brought a sandbag from her yard to view and spoke about the sandbags in the neighborhood. She added that she has spent $16,105.00 for a masonry wall and flood gate. She addressed access and functional need (AFN) and stated that it would be very challenging for all her neighbors to replace 300 sandbags on their own.

Vice Mayor Daggett asked Ms. Tewksbury-Bloom if there was an area to request help on the sites. Ms. Tewksbury-Bloom stated that the Museum Flood website directs people to call the call center, which leads to confusion. Vice Mayor Daggett asked staff if there have been any discussions or suggestions on these issues. Ms. Tewksbury-Bloom stated she did receive some help from volunteers but the priority was people who qualified with AFN. Ms. Andreani stated that priority is given to AFN, but they have been able to stage it in the past with more resources with Arizona Conservation Crews placing sandbags.

Vice Mayor Daggett spoke about timing of the volunteer events and the potential use of NAU student volunteers. Mr. Beckett added that the priority is the AFN list and that there are limited resources. Mr. Overton addressed the emergency short-term efforts.

Mayor Deasy asked if a big dumpster can be placed for people to place used sandbags in at this time. Mr. Overton stated that sandbags are wet, soggy, and heavy right now, so it is not a great time to place them.

Dawn Rodriguez addressed Council stating that communications are not clear and that no one knows who to speak to.

Vice Mayor Daggett asked Ms. Rodriguez about the hydrology report and if that is specifically what she was looking for. Ms. Rodriguez stated that it was one of many reports she could not find. Mr. Overton stated that it is a J.E. Fuller Hydrology report which is through the County and that the Feasibility Report is a City report that will be released later that week. Ms. Andreani stated that the hydrology report is currently in peer review and it will be available soon. Ms. Rodriguez asked about an email she sent regarding the report and asked if the City can just give it out. Ms. Andreani reiterated that the

report is in peer review and the engineers need to review the report before it is released. Ms. Leid stated that her firm, Peak Engineering, has been working with Coconino County and that they have been updating their modeling with J.E. Fuller. Ms. Leid added that she has not yet received that information from the County. Ms. Rodriguez stated that this is an example of things not being communicated well and that residents feel that their questions are not being answered.

Vice Mayor Daggett asked Ms. Langley how someone gets on the E-Newsletter list and to give the Museum Flood Project Website. Ms. Langley stated that they can register on the site at museumfloodproject.com. The list is also shared with the County to ensure that communications from the Flood Control District are sent to the list.

10. Adjournment

The Work Session of the Flagstaff City Council held March 29, 2022, adjourned at 6:57 p.m.

SPECIAL MEETING

1. Call to Order

Mayor Deasy called the special meeting of the Flagstaff City Council held March 29, 2022, to order at 6:57 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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. Consideration and Approval: Council Vacancy Appointment Process and Term

City Clerk Stacy Saltzburg addressed Council regarding the anticipated Council vacancy appointment process and the term of the appointment. She focused on the timeline. Her slides included:

- Timeline
- Recommended Action

Mayor Deasy asked if the timeline needed a vote, and City Attorney Sterling Solomon clarified the two necessary actions. Ms. Saltzburg then addressed the recommended action to help Mr. Solomon craft the motions.

Moved by Mayor Paul Deasy, **seconded by** Councilmember Austin Aslan to approve the process and timeline as outlined.

Vote: 6 - 0 - Unanimously

Councilmember Aslan inquired about the possibility of not having enough candidates on the November ballot. Ms. Saltzburg explained that write-in candidates could be an option, and that they must register and receive at least 1,602 votes. If that threshold is not met, the City Clerk and City Attorney will discuss next steps. Staff will have more information after April 4 on candidate numbers.

Councilmember Aslan expressed concerns about proceeding without more information and suggested waiting for more data. Ms. Saltzburg noted that waiting could compress the application deadline. Mr. Solomon confirmed that the number of qualified candidates will be clear by 5:01 p.m. on April 4.

Mayor Deasy preferred to finalize the decision that day, while Councilmember Aslan remained concerned about the potential lack of candidates. Councilmember Sweet was comfortable moving forward with the staff recommendations.

Councilmember Shimoni questioned what would happen if there were not enough candidates, and Ms. Saltzburg indicated the Council would discuss options. She also clarified that anyone not submitting candidate petition sheets could run as a write-in.

Councilmember Salas supported following the staff recommendation in line with the City Charter.

Councilmember Aslan stepped away from the meeting.

Moved by Mayor Paul Deasy, **seconded by** Councilmember Regina Salas to approve per charter, that the Council appointee will serve a term expiring December 20, 2022 and the fourth highest vote getter in the November 2022 election will serve the final two years of the vacated term, expiring in December 2024.

Vote: 5 - 0

3. Public Participation

None.

4. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember Salas stated that later that week was the Flagstaff Sister City's International Annual Meeting and the Capital Improvement Retreat. She also stated that the Flagstaff Exchange Club Build a Pole dedication to remember children lost in the last year due to violence was coming up as well.

Councilmember Sweet stated the First Friday Artwalk is back on and coming up

Mayor Deasy stated the CARE team was operational.

Councilmember Shimoni stated that last week he attended the retreat for Elevate Pre-K with Councilmember Sweet.

Councilmember Aslan stated he attended the recent Coconino Plateau Water Advisory.

5. Adjournment

The Special Meeting of the Flagstaff City Council held March 29, 2022, adjourned at 7:29 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATION

I, STACY SALTZBURG, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on March 29, 2022. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 6th day of May, 2025

_____
CITY CLERK

CITY COUNCIL SPECIAL MEETING WORK SESSION
THURSDAY, JULY 7, 2022
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. CALL TO ORDER

Mayor Deasy called the Special Meeting of the Flagstaff City Council to order at 3:06 p.m.

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 legal advice and discussion 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.

PRESENT:	ABSENT:
MAYOR DEASY	
VICE MAYOR SWEET	
COUNCILMEMBER ASLAN (virtual)	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SALAS	
COUNCILMEMBER SHIMONI (virtual)	

Others present: Deputy City Manager Shannon Anderson; Deputy City Attorney Kevin Fincel.

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

The Council and audience recited the pledge of allegiance, Councilmember Salas read the Mission Statement of the City of Flagstaff, and Vice Mayor Sweet read the 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. JWP Extension, Phase I and II - Proposed Alignments

Capital Improvement Project Manager David Pedersen led a presentation. Slides included:

- Context Map
- Agenda
- Grade-Separated Crossing Goals & Criteria
- Crossing Examples
- Wildlife Info -- AZGFD Partnership
- Blue & Green Alignments
- Cost Comparison
- Minor Arterial Engineering Criteria
- Community Outreach
- Regional Plan Map -- Map 25
- Existing JWP Blvd -- Between Pine Canyon and Terminus
- Comments & Questions

Councilmember Shimoni inquired about capping a project to two or three lanes rather than leaving the possibility for more lanes. Acting City Engineer Jeff Bauman explained that four lanes might be needed in the future due to higher density but recommended leaving easements for expansion. Mayor Deasy clarified that expansion to four lanes would likely not be necessary for about 20 years. Mr. Bauman also noted that the road would primarily serve new developments. Councilmember Shimoni asked about reducing the speed limit to 25 MPH, but Mr. Bauman stated the standard is 40 MPH, and staff is recommending 35 MPH. Councilmember Shimoni also asked about the possibility of adding FUTS trails on each side and sound walls, to which Mr. Bauman replied that these details are still in the design phase.

Councilmember House raised concerns about the preservation and safety of wells in the area. Mr. Pedersen explained that staff had reached out to Water Services and would consider wells and animal crossings after determining the alignment.

Mayor Deasy asked about the cost differential between the blue and green routes, with Mr. Pedersen explaining that the calculations had not been done yet. The routes are still in the early stages, and staff is focused on cost-effectiveness and ensuring good stewardship of public funds.

Public Participation:

- Darrin Smith addressed Council and spoke in support of the alternative alignment.
- Dave Chapin addressed Council against the salmon route since it would be in his front yard. He was also concerned about wildland fires.
- Peter Berger from Symmetry Companies addressed Council in support of the salmon alignment.

Councilmember Salas asked if Symmetry would be willing to donate the easement on their property. Mr. Berger stated that they have not gotten into the economic impact and they are certainly willing to participate, but it is hard to commit without knowing costs.

- Art Babbott addressed Council and stated that it is difficult to know where the salmon alignment lies since there is no markings. He spoke about the green alignment and how it makes the most sense. He asked that staff consider sound barriers and distance.
- Brian Rhoton from Capstone Homes addressed Council in favor of the salmon route. He added that the blue and green routes go over canyons so they would be more expensive and that there is no material impact to Canyon del Rio. He added that the large property owners chose the least impactful alignment for their properties and they support the salmon line.

Councilmember Salas asked if Mr. Rhoton was also a partner with Symmetry and Juniper Point and how much they spent on studies in partnership with the City. At Canyon del Rio, they spent $50,000 to $100,000 of their own money on the alignment and more on plotting the designs. Councilmember Salas asked if they would consider donating the easement or right of way to the City as they build the road. Mr. Rhoton replied that the City will get a dedicated right of way. She also asked if the City moves

forward with the original alignment, would it impact his property. Mr. Rhoton stated that it would not, but that Canyon del Rio needs to move forward with construction.

- Jonathan Southward addressed Council in favor of the green route.
- Ryan Southward address Council in favor of the green route.
- Joann Miller addressed Council and spoke about the riparian green space and the wildlife. She stated that the road should be a two-lane versus a four-lane road with a lower speed limit and that the residents should get water, high-speed internet, and other utilities. She stated she is in favor of the green route.

- Lindsay Schube, representing multiple property owners in the area, explained that the original alignment is the approved plan, and the alternative alignments were developed in response to concerns and complaints. She stated that Little America prefers the original alignment but is open to working with it, while the State Trust Land supports the alternative alignment. She also noted that all large property owners oppose the green and blue routes, preferring a two-lane road. Ms. Schube's clients are willing to collaborate with staff and the community on the best construction approach.

Councilmember Salas inquired about the opposition to the green and blue lines. Ms. Schube explained that the main concern is the significant disruption to their properties, particularly regarding future development. The green and blue routes interfere with planned developments on State Trust Land, and the alternative alignment is seen as causing the least impact to the property owners.

  - Peter Burch from Brighton addressed Council in favor of something that allows them a way to cross the Rio de Flag. He stated that he favors the alternative alignment salmon route.

Colleen O'Neill submitted written comments in opposition to the salmon route.

Robert Schmitt submitted written comments with concerns that there was not proper outreach.

Maris Fisler submitted written comments in support of the original proposal and postponing the decision until more outreach can be done.

Laura and Troy Passmore submitted written comments in support of the alternative alignment.

Councilmember Shimoni asked why the blue and green alignment options are not viable. Mr. Pedersen explained that large property owners have already negotiated for the salmon route and would oppose the green option. Councilmember McCarthy stated that both the blue and green routes are unacceptable due to their impact on a riparian area, and he supports the salmon route with some adjustments.

Councilmember Salas asked about NAU's feedback, and Mr. Pedersen clarified that NAU is working on a master plan and prefers the original route but can accept the salmon route.

Councilmember House also supported the salmon route, emphasizing the need for two lanes, speed control, and alternative transportation options. Vice Mayor Sweet agreed, expressing concerns about the green route and suggesting sound barriers and a 35 MPH speed limit.

Councilmember Aslan stated his support for two lanes and wildlife corridors and expressed concern about sound walls blocking views. He also opposed the green route due to its impact on wildlife.

Mayor Deasy clarified that the focus should be on alignment, and the salmon route was the most viable option to avoid legal disputes and delays. Councilmembers House, Shimoni, Salas, Aslan, and Vice Mayor Sweet agreed to eliminate the original option, with McCarthy suggesting the green route be removed as well.

Councilmembers agreed to move forward with the salmon route, with some tweaks in the design phase to reduce impacts on property owners. The consensus was to acquire land for five lanes but initially build only three. Councilmembers Shimoni and Aslan preferred acquiring land for three lanes.

5. ADJOURNMENT

The Special Meeting of the Flagstaff City Council held July 7, 2022, adjourned at 4:17 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, OCTOBER 25, 2022
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Deasy called the Work Session held October 25, 2022, to order at 3:00 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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.

PRESENT:	ABSENT:
MAYOR DEASY	
VICE MAYOR SWEET	
COUNCILMEMBER ASLAN	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SALAS	
COUNCILMEMBER SHIMONI	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

Mayor Deasy called a moment of silence to honor employees who have recently passed away.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Salas read the mission statement, and Councilmember Shimoni read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. Public Participation

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

Jim McCarthy addressed Council and spoke about the metrics of a potential noise ordinance and his work measuring sound.

Mark Alexander, Stefan Sommer, Jill Stephenson, Dee Hoagland, and Nate Spangler addressed Council regarding electrification of the City's fleet.

Stephen Puhr addressed Council and offered comments regarding the flooding in Coconino Estates and urged Council to adopt option 2 on the Schultz Creek Culvert.

Paul Haro addressed Council regarding the Veteran's for Peace Armistice Day Proclamation.

Andy Fernendez addressed Council and offered comments regarding recycling, carbon neutrality, and a good neighbor policy regarding holiday displays.

5. Review of Draft Agenda for the November 1, 2022 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

None.

6. Proclamation: STEM City 10th Anniversary

Mayor Deasy read the proclamation.

7. City Manager Report

City Manager Greg Clifton briefly reviewed his report including highlighting new leadership team members, Human Resources Director Randy Tracey; City Engineer Paul Mood; and Water Services Director Shannon Jones.

Mr. Clifton reviewed the recent Police Department Ceremony for Officer of the Year that honored Officer Pat Condon and the recent Discover Flagstaff Annual Marketing Luncheon.

Mr. Clifton also highlighted the upcoming events for Habitat for Humanity's tiny starter home tour and the upcoming Council retreats dates. Interim Deputy City Manager and Economic Development Director Heidi Hansen gave the Economic Vitality Monthly Report.

- Annual Airport Certification
- Airport Emergency Plan Update
- CARES Act projects
- Wisemann Aviation pavement repairs
- New FLG In-Flight issue
- Airport Media Kit
- Enplanements

- Courthouse Art Plaque completion
- Airport Art, Coconino Scroll, ongoing
- Beautification in Action Grants update
- Creative Flagstaff Innovation & Capacity grant update
- Software updates on all kiosks
- Touched up yellow paint in loading zones
- Woodsyn business attraction meeting
- Sustainable Automotive Sales Tax Rebate
- Home Goods opening
- KC Lights in the former Arizona Daily Sun building
- Chooseflagstaff.com website being update
- Business Retention and Expansion Incentive update
- Library updates
- Climate Resilience Project with Sustainability
- Green Living Best Weekend Getaway Award
- Update on Tourism Metrics
- Marketing & Media Relations update
- One film permit was issued in September
- New campaigns

Councilmember Salas addressed gratitude to staff for In and Out Burger coming to Flagstaff and spoke of their accomplishments.

Councilmember Shimoni asked if there are any updates on the Green Book tour project. Ms. Hansen stated that it is completed and available.

Parks and Recreation Director Rebecca Sayers gave the PROSE update.

- Trail Counts
- Accessibility and Buffalo Park trail surface
- Staff Spotlight on Amy Hagin
- Upcoming events at the Recreation Centers
- Picture Canyon funding
- Observatory Mesa Arizona Conservation Corp assistance
- Promotion of Beck Thomas
- Indigenous People's Day
- Technology update

Councilmember Shimoni asked if the City Adult Basketball League is back up and running. Ms. Sayers stated that it is.

8. Thorpe Park Annex Community Engagement Results and Discussion

Assistant Parks and Recreation Director Amy Hagin introduced Andy Rogers from Southwest Decision Resources gave a presentation on the Thorpe Park Annex Community Engagement. Slides Included:

- Introduction
- Meet the Team
- Goals of the Process
- Community Engagement Approach
- Listening and Learning
- Visions/Values
- Potential Programming
- Web-based Outreach and Engagement
- Listening and Learning
- Virtual Information Sessions
- Community Survey #1
- Community Values
- General Interest in Programming Activities
- Conversations & Design

- Design Sessions
- Design Session 1
- Common Elements Across All 3 Concepts
- A. Back to Nature
- B. Family, Fitness, Fun
- C. Something for All
- Design Study Session 2 & Survey 2
- Design Session 2
- Community Survey 2
- Refinement/Approval
- Getting to the Final Concept
- Final Concepts for Review
- Concept 1
- Concept 1b
- Questions

Rose Houk addressed Council and stated that she is not in support of the current designs.

Chris Jocks addressed Council that he was concerned about the number of things packed into the plan.

Robert Breunig addressed Council and stated that he is thrilled about the Indigenous Center in the plan but he would like to see more nature in the plan.

Rev. Janetta Beaumont addressed Council and stated she was in favor of the cultural center.

Elizabeth Bechok addressed Council regarding her concerns about the community garden with water run-off from the potential skate park and dog park relocation and would like to see more space for an orchard.

Darrell Marks addressed Council in support of the Community Cultural Center. He shared statements about the residents of the Kilani Dormitory and shared their concerns about the business of the plan.

Councilmember Shimoni asked Mr. Marks if the students prefer concept 1 to 1b with the housing. Mr. Marks shared that the students felt that it would be too crowded for traditional ceremonies with the housing and the noise levels.

Viki Blackgoat addressed Council regarding the Indigenous Cultural Center and how it needs more space for the cultural center and nature.

Councilmember Shimoni asked Ms. Blackgoat if there is anything that would make the plan feel more balanced to her. She replied that more growing space and more quiet, natural space would be good.

Travis Alexander Pinn addressed Council and stated that he supports the Indigenous Community Cultural Center (ICCC). He is in support of housing for City employees but that the parking for the ICCC needs to be kept.

Joe Washington addressed Council and spoke about the importance of flora and fauna to Native American culture.

Tyler Denham addressed Council and stated his support for design 1b.

A break was held from 5:17 p.m. through 5:38 p.m.

Councilmember Aslan inquired about the need to move the dog park and why it occupies so much space in the concept plan. Ms. Hagin explained that the current dog park is in a flood zone and unsafe in winter. The relocated park would also provide additional parking and more trees.

Councilmember House raised concerns about the Indigenous community and asked about Housing

Commission involvement, noting the plan would be reviewed by the commission later that week. Ms. Hagin explained that the placement of housing was based on existing utilities and the site's suitability. Ms. Sayers added that there was no clear consensus but a policy decision was made. Councilmember House emphasized the need for housing in every project.

Councilmember McCarthy expressed general support for the plan but suggested limiting turf and creating a more natural feel. He raised concerns about noise from pickleball courts and proposed removing them to make space for nature. Vice Mayor Sweet echoed his concerns and emphasized the need for nature to balance noise, while Ms. Hagin and Ms. Sayers assured that vegetative buffers were planned.

Councilmember Shimoni supported the plan and suggested including outdoor workout equipment and a bicycle repair station. He proposed moving the dog park to accommodate the pickleball courts, though some trees might be lost. He also expressed support for housing but raised questions about other potential locations. Ms. Sayers noted that housing within Thorpe Park was challenging due to infrastructure limitations.

Mayor Deasy proposed moving pickleball courts to the old dog park to free up space for parking and activities, and emphasized making the east side of the park a natural area. He also suggested considering housing on the east side and the possibility of two-story apartments.

Councilmember Salas supported moving the pickleball courts, adding gardens, and incorporating cost recovery. She also inquired about funding for the Indigenous Circle of Flagstaff.

Councilmember Aslan supported moving the pickleball courts and emphasized natural landscaping. He also suggested two-story apartments for housing and expressed concern about lighting for the observatory.

Councilmember McCarthy supported moving the pickleball courts and considered the impact of traffic, suggesting access via Thorpe Road. Ms. Hagin clarified that state restrictions prevent connecting to Thorpe Road.

Vice Mayor Sweet also supported moving the pickleball courts and increasing workforce housing.

Mayor Deasy pointed out the lack of more natural space in the plan and expressed a desire for more natural elements on the east side.

Ms. Sayers reiterated Council's direction for a more natural environment, removing pickle ball courts, continue looking at City employee housing, and looking at different types of parks and equipment.

9. Annual Revisions to the Carbon Neutrality Plan

Climate Program Manager Jenny Niemann provided a presentation that covered the following:

- Agenda
- Timeline
- Rationale
- Three Types of Revisions
- Incorporation of New Information
  - Partners
  - Investment
  - Housing Plan
- Annual Updates
- 2021 Greenhouse Gas Inventory
- CAAP & CNP Consolidation
- Timeline
- Flagstaff's Climate is Changing
- Resilience requires considering evolving risks
- Plan Comparison

- Current CNP Target Areas
- The new CNP target Areas
- CAAP-CNP Integration
- CNP Revisions

Councilmember Aslan stated he is fully supportive of everything that was presented. He asked about electrifying the City's fleet and stated that his personal sense is to balance the buying an electric fleet while implementing electric vehicles. Ms. Niemann stated that the City has a similar policy where electric vehicles are considered first for smaller vehicles and the City looks at electric first when they have the option. The City is not buying new vehicles to replace currently running vehicles because of the environmental impact. It is fiscally and environmentally sound to do the electrification this way and staff is trying to be strategic on the replacement.

Councilmember Shimoni stated he supports everything in the presentation. He added he received a photo from Streets Director Sam Beckett regarding the electric pick-up truck that the City just acquired.

Andy Fernandez addressed Council and offered comments on the Carbon Neutrality Plan.

Karen Enyedy submitted a written comment in support of regenerative landscaping.

A break was held from 7:03 p.m. through7:10 p.m.

10. Stormwater Rate Adjustment Discussion

Water Services Manager Edward Schenk and Sanjay Gaur with Resource Economics provided a presentation that covered the following:

- Overview
- Stormwater Rate & Program History
- Utility Structure -- Flagstaff is complex
- Current Rates/Proposed Rates
- National Stormwater Survey
- Reasons for the Purpose of Rate Adjustment
    - Stormwater Capital Proposal -- Seven-year horizon
    - Capital Improvement Projects
- Rate Basis -- ERU
- Proposed Policy Recommendations
- Development of Financial Plan
- Projected Expenditures
- Status Quo: Projected Cash Position

Councilmember Aslan asked why the grants taper off and Mr. Gaur replied because there is no guaranteed grant revenue after 2024, although that will change as staff seeks more grant funding.

- Summary of Status Quo
- Proposed Rates
- S1: Voter Approval of GO Bond
- S2: GO Bond Not Approved
- Stormwater Service Charge
    - Year 1 Proposal/Impacts
- National Stormwater Survey
- Rate Implementation Timeline
- Stormwater Rate Community Outreach
- Questions

Joe Galli addressed Council representing the Greater Flagstaff Chamber of Commerce Board of Directors and stated that they oppose the rate increase.

Councilmember Shimoni asked Mr. Galli about the value of the proposed funding approach. Mr. Galli acknowledged the need for fire-related flood mitigation and mentioned that there is significant federal

funding available for only four states. The Chamber is willing to assist the City in applying for these funds. Councilmember Shimoni also referenced a County/City meeting where it was stated that $140 million would be needed for flood mitigation.

Councilmember Salas asked Mr. Galli for recommendations on securing additional funding for flood mitigation, especially in areas like Route 180. Mr. Galli expressed concern over the economy and noted that Congressman O'Halleran has reached out to assist with federal funding applications. He also mentioned that while the Chamber is open to discussing a revised fee schedule, the current proposal is unacceptable to the business community.

Mayor Deasy expressed to Mr. Galli that the flood mitigation projects are necessary. Mr. Galli agreed but emphasized the need for alternative funding solutions, as $300 million in federal funding is insufficient. Mayor Deasy suggested redirecting sales tax dollars earmarked for transportation projects to help fund these efforts. Mr. Galli was open to discussing this option but did not commit to supporting it.

Vice Mayor Sweet acknowledged the rising costs for small businesses but emphasized that the projects must proceed. Mr. Galli reiterated the Chamber's willingness to collaborate with the City but rejected the current fee proposal, noting support for a similar fee in 2019 to secure matching federal funds.

Mr. Schenk, addressing the funding issue, warned that without the rate adjustment, the City would have to scale back services. He explained that federal and state funding, while helpful, would not cover all the necessary capital improvements. Councilmember Aslan emphasized the need for local funding due to the uncertainty of federal support.

Councilmember McCarthy expressed trust in staff to secure state and federal funding and supported the rate increase and increasing the maximum ERU's for homes.

Councilmember House asked for details on upcoming community forums, with several virtual and hybrid sessions scheduled. Councilmember Shimoni asked if there was flexibility in the timeline for rate adjustments. Mr. Schenk said it could be pushed back, but it would require a higher rate to meet debt obligations.

Mr. Clifton supported moving forward with the rate adjustment, emphasizing its urgency while also suggesting more time to explore funding options. Councilmember Salas expressed interest in exploring state funding, given recent changes in state leadership.

Mayor Deasy stressed the importance of getting the word out to the public about these funding challenges and solutions.

11. Public Participation

Andy Fernandez submitted a written comment with concerns about the judicial system.

12. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember Salas stated that the Anniversary of Coconino County Children and Youth was coming up. She also stated there was an upcoming event for the Flagstaff Family Food Center and that the Rio de Flag meeting this with Army Corp was for later that week.

Councilmember Shimoni stated that he was meeting with Northern Arizona Healthcare leadership and Habitat for Humanity at the new site.

Mayor Deasy stated he was meeting with Mountain Line to go over a proposal for different projects in the future. He stated he was also meeting with NASA and the Artemis program.

13. Adjournment

The October 25, 2022 City Council Work Session was adjourned at 8:43 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

JOINT CITY OF FLAGSTAFF / COCONINO COUNTY WORK SESSION
TUESDAY, MARCH 6, 2023
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. **Call to Order**

Mayor Daggett called the Joint Work Session of the Flagstaff City Council and the Coconino County Board of Supervisors to order at 4:03 p.m.

2. **Roll Call**

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

PRESENT:	ABSENT:
CHAIRWOMAN HORSTMAN	
VICE-CHAIRMAN VASQUEZ	
SUPERVISOR BEGAY	
SUPERVISOR FOWLER (virtual)	
SUPERVISOR RYAN (virtual)	
MAYOR DAGGETT	
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MATTHEWS	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SWEET	

3. **Pledge of Allegiance, Mission Statement, and Land Acknowledgement**

The Council, Board of Supervisors, and audience recited the pledge of allegiance, Councilmember McCarthy read the Mission Statement of the City of Flagstaff, and Councilmember Sweet read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. Public Participation:

Public Participation enables the public to address the Council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment on an item that is on the agenda is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak.

None.

5. Presentation on the High-Country Training Academy

Police Chief Dan Musselman presented on the new High- Country Training Academy. He introduced the Coconino Community College President Erik Heiser who spoke about his background and the academy. Slides included:

- Background
- Benefits
- Partnerships

Mayor Daggett asked if there is a recruit who is living elsewhere, where would they attend the academy. Chief Musselman stated that they could attend our academy, but they can attend closer to home.

Chairwoman Horstman stated her gratitude for the partnerships and offered that she believes that this will help with recruitment in the area.

Councilmember Matthews gave her thanks and added her gratitude to the community college for making room.

Supervisor Ryan addressed the difficulties with recruitment and expressed his gratitude for the partnership.

Councilmember McCarthy stated that this is a great program for the community.

Supervisor Vasquez stated his gratitude. He asked how much the City and County are saving per recruit. Chief Musselman stated that it was at least $5,000 to $7,000 per recruit to send them elsewhere.

Councilmember Harris asked if tours would be available for high school students to get them interested in the program. Mr. Heiser stated that they are looking at tours to get the students interested in being a law enforcement officer and that they will welcome them to their space.

Supervisor Begay stated her gratitude.

6. Regional Plan Update and Direction on Plan Creation and Adoption

Comprehensive Planning Manager Sara Dechter, Senior Long Range Planner Melissa Shaw, and Cascadia Partners Representative Alex Steinberger gave a presentation on the Flagstaff Regional Plan Update for 2045. Slides included:

- Why is it a "Regional Plan"?
- This Regional Plan Update
- The Next Regional Plan
- County Comprehensive Plan Update
- Public Participation
    - Update Process
    - Outreach through 2023

- Visioning Workshops
- Phase 2 Collaboration
- Community Based Organization Process

Councilmember McCarthy spoke about Strive Forward from MetroPlan which is very similar to this plan but about transportation. He asked how the Regional Plan and Strive Forward work together. Ms. Dechter stated that the Strive Forward plan was collaborated with the Regional Plan early on and that they are branded differently. The Strive Forward plan is only a five-year plan. She addressed how the two plans aligned.

Vice Chair Vasquez asked about the plan to get input from all communities. Ms. Dechter addressed what staff have done to identify gaps during the visioning workshops and what areas where they needed to do bigger lifts to get more inclusive community involvement.

Chairwoman Horstman asked what the City Council and the Board of Supervisors can do to reach out to the communities to get them involved. Ms. Dechter stated that staff will email them to give them information on the meetings and invited them to the meetings.

- Scenario Planning
- The Traditional Planning Approach
- Plan for One Idea of the Future
- Some Predictions Came True!
- Unintended Consequences
- How Do We Plan for Uncertainty
- The Traditional Planning Approach
- The Scenario Planning Approach
- What Are Scenarios?
- Data-Informed Decision-Making
- Scenario Planning Process
- Process Driven by Public Input
- Upcoming Public Engagement
- Face the Future Flagstaff
- Each map will need to be digitized
- Identify Consensus and Inform Alternative Scenarios
- How do we get to a preferred scenario?
- Face the Future Flagstaff: Public Workshops
- Scenario Planning

Mayor Daggett stated that she loves the Scenario Planning and she wondered if the scenarios will include economic impacts. Mr. Steinberger stated that there will be a range of indicators points for a range of comparisons. Ms. Dechter added that in addition to the software, City staff will take what they learn and see what they need to pull in for the scenarios. The City is also investing in a Land Use Study.

Councilmember Harris stated that all segments of the community must be involved in this process. She asked how we are going to ensure that those voices are heard so that those neighborhoods are not negatively impacted. Ms. Dechter stated that the community-based outreach with non-profit organizations will be essential, and that staff will be evaluating at each phase what segments of the population are missing from the conversation. Councilmember Harris stated that Ms. Dechter did a great job with communication for the Southside Plan and that she is comfortable with Ms. Dechter doing this. Chair Horstman added that it is their responsibility to engage the community as well. Ms. Dechter added some of the outreach plans that staff currently has to engage marginalized voices.

Chairwoman Horstman asked if the Scenario Planning game will be available in the workshops at the end of the month. Mr. Steinberger stated that they will be.

Supervisor Ryan asked about keeping people involved in the process and asked about engaging the business community as well as non-profits. He addressed how to process all of the data and input that is received through this process.

- Advisory Committee and Policy Translation

- Plan Update Committee
- Staff Recommendation -- Overall
- For Any Option
- Option 1: Bond Committee Model

City Clerk Stacy Saltzburg spoke about the success of the bond committee and the way the structure differs from other structures. She emphasized the need of ordinances for other structures. Mr. Clifton spoke about the advantages of the structure. He addressed how the manager was able to ensure diversity in the committee and he spoke about quorum in the meetings.

Councilmember McCarthy stated that he is concerned about the diversity of the committee based on the nature of recommendations. Mr. Clifton addressed how he ensured diversity in the bond committee.

City Clerk Saltzburg stated that the Managers are able to respond quickly to any noted gaps.

Vice Chair Vasquez asked about the representatives that could be appointed by the Board of Supervisors. He asked if they could be city residents or if they would have to be rural. County Manager Steve Peru stated that it would need to be evaluated how relevant it would be to different residents of the county depending on residence.

Chairwoman Horstman stated that she does not feel that 12-15 members would be enough.

Supervisor Ryan stated that he appreciates the flexibility of the structure. He stated that it is similar to what the bond advisory for the Jail District was set up.

Chairwoman Horstman pointed out that she loves the flexibility of Option 1 and that it is County and City Manager appointed. She also stated that it is important to keep the meetings transparent.

Supervisor Ryan suggested keeping the Board and Council informed.

Supervisor Begay agreed that 12-15 members is not sufficient. She stated that there will need to be structure and that Open Meeting Law should be observed.

- Alternative Option 2: Formal Commission appointment
- Alternative Option 3: Affordable Housing Plan Model

Councilmember House stated that she supports Option 1 but that there needs to be more members than what is recommended.

Councilmember Sweet, Supervisor Begay, Councilmember McCarthy, Mayor Daggett, Chairman Hortsman, and Vice Mayor Aslan stated that they support Option 1 with an increase of membership.

Vice Chairman Vasquez agreed with Option 1 as well with a larger number of members and with more nominations from the Council and Board of Supervisors.

Councilmember Harris stated that she also supports Option 1.

Councilmember Matthews and Supervisor Ryan stated that they support Option 1 and to have alternates added in.

Councilmember McCarthy suggested having the chair of the Planning and Zoning Commissions as members.

Supervisor Fowler stated her support of Option 1 and commented on how far-reaching the plan is.

- Plan Adoption
- Staff Recommended Sequencing

Councilmember Matthews asked about the County residents voting on the plan. Ms. Dechter stated that the County does not because cities over 50,000 people are required to vote on the plan while the

County is not required to vote on it.

Supervisor Ryan stated that he likes the idea of the retreat to align the plan. He stated that each entity should have a work session with their attorneys on the plan.

All members of the Council and the Board of Supervisors support staff's recommended plan.

- Project Contacts

A break was held from 6:00 p.m. to 6:11 p.m.

7. Post Fire Flood Mitigation/Forest Restoration

Flood Control District Administrator/Deputy County Manager Lucinda Andreani gave an update on the Flood Mitigation Projects. Slides included:

- Update on Park Way Sediment Basins Project
- Park Way Sediment Basins
- Update on Schultz/Pipeline Flood Mitigation
- Communications

Coconino County Flood Control District Forester Director Jay Smith and Joe Loverich, P.E. from J.E.Fuller Hydrology gave a presentation on the Upper Rio de Flag Post-Wildfire Flood Study. Slides included:

- Objectives of Study
- Fire Modeling
- Fire Modeling Details
- Slope Ranges
- Flood Modeling

Coconino County Flood Control District Forester Jay Smith gave an update on the Upper Rio de Flag Forest Restoration. Slides included:

- Economic Impact Study
- Proactive Implementation

Ms. Andreani expressed concerns about the cost of treatment and the severity of the problems that are faced with.

Councilmember Matthews asked what kind of investment the County is hoping for from the City of Flagstaff. Mr. Smith stated that they are still trying to figure it out since they are waiting for a dollar amount from the Forest Service. She also asked if there is consideration for a bond. Ms. Andreani stated that once they understand the possible costs and the areas of funding and the commitments, they will know more. She added that she would not take a bond off the table.

Chairwoman Horstman stated that the County has really tried to save the money for forest restoration and that the federal funding has been essential. The $30 million is earmarked just for forest restoration and they are grateful for the $90 million for flood mitigation.

Vice Chair Vasquez expressed his gratitude.

Mayor Daggett added that she is very appreciative of the modeling. She stated that the Council is supportive of whatever is needed to combat these issues.

8. Informational Items To/From Chairman, Supervisors and County Manager, Mayor, Council and City Manager

Councilmember McCarthy expressed his gratitude and mentioned that Kate Morely started as the new Executive Director of MetroPlan.

Supervisor Ryan expressed regret for not being at the meeting in person. He spoke about the Regional Plan and the partnership involved.

Vice-Chairman Vasquez reminded the community about the Wapukti Trails meeting.

Chairwoman Hortsman stated her appreciation for staff and the City Manager. She spoke about the weather and snow loads and stated that the County created a call center. Corey Ringenberg spoke about the snow fall and snow loads. He explained how the emergency management team at the County worked with the City to provide educational resources and they have posted the resources online. Chairwoman Hortsman pointed out that Department of Forest and Fire Management gave the City $28 million dollars which was the largest percentage of funds received.

9. Public Participation

None.

10. Adjournment

Mayor Daggett adjourned the Joint Work Session of the City of Flagstaff and the Coconino County Board of Supervisors at 7:06 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, APRIL 25, 2023
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Daggett called the Special Meeting of the Flagstaff City Council held April 25, 2023, to order at 3:01 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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.

PRESENT:	ABSENT:
MAYOR DAGGETT	
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MATTHEWS	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SWEET	

Others present: City Manager Greg Clifton; Deputy City Attorney Kevin Fincel.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Vice Mayor Aslan read the Mission Statement of the City of Flagstaff, and Councilmember House read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. **Public Participation**

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

- Trudy Thompson-Shumaker from the Red Cross presented the American Red Cross National Life Saver Award to two lifeguards, Haley and Alexis, who saved a life in January at the Aquaplex.
- Michael Pappas addressed Council to criticize NAIPTA and Flagstaff Police Department.
- Michele James, the Executive Director of Friends of Flagstaff's Future, addressed Council regarding the Northern Arizona Healthcare (NAH) rezoning process and hearing that is upcoming.
- Jamie Whelan addressed Council as a member of the Sunnyside Neighborhood Association subcommittee regarding the rehabilitation of Fire Station 2 to ask to make the old station a STEM center and have it funded by funds that were left over from ARPA funding.
- John McCartney addressed Council regarding climate change.
- Paul Haro addressed Council regarding pickleball and the issues he encountered with pickleball players. He stated that he is against creating pickleball courts at Bushmaster Park.
- Stefan Sommer addressed Council regarding the rezoning of NAH stating that he is against the proposal.
- Elle "Missy" Ivey addressed Council regarding her hesitations about the rezoning of NAH.
- Rene RedDay addressed Council about the redevelopment of Firehouse 2 and creating a STEM Center for the Sunnyside neighborhood.
- Adam Shimoni addressed Council about the Washington lobbying trip and the Earth Day celebrations. He added that biking on Fourth Street to the Earth Day celebrations felt very dangerous and he spoke about Bike Month in May. He also addressed the upcoming Budget Retreat and the support in the past Budget Retreat for elevated bike lanes.

Mikiya Sequoia submitted a written comment in support of building pickleball courts at Bushmaster Park.

5. **Proclamation:** National Infertility Awareness Week

Mayor Daggett read and presented the proclamation to Ms. Karen Shaffer.

6. **Recognition:** Barney Helmick, Airport Director, Retirement

Economic Vitality Director Heidi Hansen thanked Mr. Helmick for his service. He will be retiring at the end of this week. She gave a short presentation on his work service and accomplishments.

Mayor Daggett presented Mr. Helmick a key to the City. Mr. Helmick expressed his gratitude.

Miriam Carol Curtis addressed Council as a member of the Airport Commission to honor Mr. Helmick

7. **April Work Anniversaries**

Deputy City Manager Shannon Anderson highlighted the employees who had April Work Anniversaries.

8. **City Manager Report**

City Manager Clifton reviewed his report for Council.

Community Development Director Dan Folke touched on the highlights of the reports for Community Development, Capital Projects, Real Estate, Code Compliance, and the Housing Section Newsletter.

Management Analyst Lisa Deem highlighted some of the Water Division accomplishments from the February and March reports.

Economic Vitality Director Heidi Hansen gave some highlights from the Economic Development Report.

Vice Mayor Aslan asked for an update on the Library entrance. Ms. Hansen stated that they hope that the project will be done by the beginning of June. She added that the airport art project's fence is going in this week and next week.

9. **Consideration and Approval of Contract:** Cooperative Purchase Contract with Motorola Solutions, Inc. in an amount not to exceed $2,192,163.44 for radio equipment and accessories for numerous City Divisions and Sections.

Police Chief Dan Musselman provided a presentation that covered the following:

- Radio History
- Motorola selection
- Contract Specifications
- Procurement

Vice Mayor Aslan asked Chief Musselman and Deputy Chief Bills about the functionality of the radios and if they have too many features. Deputy Chief Bills spoke about the features of the radios and how the features are the same as previous radios. Chief Musselman addressed the consistency of the radios.

Kelly Cullen addressed Council representing Niles Radio. He expressed that he is frustrated because he did not feel that he was able to bid for the project and asked to be able to bid on radios for departments other than Fire or Police.

David Sanders submitted a written comment in opposition to the contract with Motorola.

Councilmember McCarthy asked procurement to give a quick overview of the procurement process. Procurement Director Patrick Brown addressed the use of a cooperative agreement for this purchase through the State of Arizona.

Mayor Daggett asked Mr. Brown to speak to the request to peel off the other divisions' radio needs. Mr. Brown stated that it would stop the procurement of this purchase to get additional pricing from the vendor and would affect the discount and trade in values on the old radios. He added that procurement can peel off some of the radios, but it would affect the pricing.

Councilmember Matthews asked Mr. Brown what the process is for companies to bid on projects. Mr. Brown stated that in the case there was not a specific bidding process the city chose a cooperative agreement through the state and their procurement process was used for selection.

Councilmember Harris clarified that the State did their procurement and that any company was able to contribute a quote. Mr. Brown responded yes.

Chief Musselman added that there will be business with Niles Radio through the process for radio installations in vehicles.

10. Adjournment

Mayor Daggett adjourned the Special meeting of the Flagstaff City Council at 4:56 p.m.

WORK SESSION

1. Call to Order

Mayor Daggett called the Work Session of the Flagstaff City Council held April 25, 2023, to order at 4:56 p.m.

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 work session, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion 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. Review of Draft Agenda for the May 2, 2023 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

Councilmember McCarthy asked staff speak about the tallest building heights at Northern Arizona University in the conversation about the NAH rezoning. He also asked about the pickleball discussion and how far it is from the existing courts and the proposed courts to the nearest neighbors.

3. Rio de Flag Flood Control Project - Update

Project Manager Jeremy DeGeyter and Real Estate Manager Bryce Doty provided a presentation that covered the following:

- Project Update
- Rio de Flag Project Area
- USACE
- Project Update
- Real Estate

Councilmember McCarthy asked Mr. DeGeyter about the five points intersection and the schedule for the Lone Tree Project. Senior Project Manager Christine Cameron stated that they expect the bridge to be completed in 2026.

Councilmember Matthews asked if there were any updates on the appraisals at this time. Mr. Doty stated that the Army Corps was not speaking directly to the appraisals, so the City has now given them permission to do so.

Councilmember Harris asked if staff could come up with some creative ideas on how to make the construction more bearable like suggestions on using alternative routes. Economic Vitality Director Hansen stated that she will work with Public Affairs and Discover Flagstaff to market creative ideas on living with the construction. Mr. DeGeyter stated that engineering will assist as well.

4. **Post-Wildfire Flooding Update**

Stormwater Manager Ed Schenk, Capital Improvements Project Manager Eli Reisner, Senior Project Manager Mac McNamara, Joe Loverich from JE Fuller, Grants, Contracts, and Emergency Management Director Stacey Brechler-Knaggs, Sustainability Volunteer and Event Coordinator Steven Thompson, and Public Affairs Director Sarah Langley gave an update on the mitigation response and the capital projects regarding the flooding issues. Slides included:

- Objectives
- Spruce Wash
  - Suite of projects update
  - Project team
  - Project delivery schedule
  - Park Way Basin
- Schultz Creek
  - Schultz Creek channel stabilization
  - Schultz Creek at Highway 180
- Spring Runoff
  - Recent Community Impacts
  - Emergency Management Response
  - Water Services Response
- Monsoon Preparations
  - Flood modeling
  - Emergency alerts thresholds
  - Temporary mitigations
  - Volunteer Days
  - Resident-to-do

Steve Puhr addressed Council regarding the flooding mitigation and the repairs of the culvert. Mr. Schenk addressed the culvert and the fact that Option 2 is a long-term project with the rerouting of Schultz Creek. He added that the temporary fix would be in place until then. He stated that if even if the City had the money to do the convenance for the rerouting, the materials are not available and are at least one to three months out.

Mr. Clifton stated that the short-term measure could become a part of the long-term measure. Mr. Schenk stated that staff's hope is that the short-term emergency ditch could be a similar footprint to the long-term solution and that they would only have to dig once, or if they have to dig twice that they can use what has been done with relocating utilities and other issues. He stated that having synergy between the two solutions will be less expensive and faster.

Councilmember Matthews stated that she is disappointed to hear that the project would now cost twice as much, but that she is happy to hear that staff may be able to use the same footprint. She asked about the size of the culvert. Mr. Schenk spoke about the upgrade to the larger pipe in the long-term solution. He stated that the pipe will have to be replaced. Councilmember Matthews clarified that the existing culvert will not be dug up under Highway 180 until after the long-term solution is started. Mr. Schenk explained the plans in detail.

5. **Public Participation**

Anthony Garcia addressed Council regarding the community outreach around the possible redevelopment of Fire Station 2 for a STEM center.

6. **Informational Items To/From Mayor, Council, and City Manager; future agenda item requests**

Councilmember Sweet spoke about the lobbying trip to Washington D.C. and wished Mr. Helmick a happy retirement.

Councilmember Matthews also spoke about the lobbying trip to Washington D.C.

Mayor Daggett spoke about a tour she took with the Career and Technical Education programs at Flagstaff High School and Coconino High School. She stated that later that week at the East Side Library there is a Water Supply Plan meeting. She added that the mural in her office is being painted this weekend.

7. Adjournment

The Work Session of April 11, 2023, adjourned at 6:10 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, SEPTEMBER 26, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Daggett called the Work Session of September 26, 2023, to order at 3:02 p.m.

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 work session, 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.

PRESENT:	ABSENT:
MAYOR DAGGETT	COUNCILMEMBER HOUSE
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER MATTHEWS (virtual)	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SWEET	

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Sweet read the Mission Statement of the City of Flagstaff, and Councilmember Harris read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. Public Participation

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agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have 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.

Shannon Edmonds addressed Council regarding ADA compliance and the need for cleared sidewalks.

Rachael Simukonda addressed Council regarding ADA compliance and the difficulties she encounters as a disabled citizen. She spoke about the width of the streets, the main entrance of City Hall, and the ability to park in regular parking spots.

Dapper Dre addressed Council regarding the infrastructure needed to address the three carbon neutrality goals and how it is not happening fast enough. He spoke about the designs of the streets and how they do not address the current conditions of people who drive to ensure the safety of pedestrians. He suggested doing a study to find where the largest amount of pedestrian use and developing infrastructure to address their safety.

Adam Shimoni addressed Council regarding the perspective of the bicyclist and how to design to make pedestrian safety a priority.

Andy Fernandez addressed Council regarding crosswalks, the new roundabout, and proposition 480.

5. City Manager Report

City Manager Greg Clifton gave a few highlights from his report including a reminder of the Council retreat on October 12, 2023.

Economic Vitality Director Heidi Hansen gave a few highlights from the Economic Vitality Monthly Report:

- Airport
  - Marketing
  - NAU Partnership
  - Advertorials -- Thank you to Vice Mayor Aslan
  - Installed a fabric installation with brochures for the Coconino Scroll
  - Wrapping Airport Rescue Fire Fighting vehicles
  - Paid Parking System is going well
  - Thunder Over Flagstaff had over 5,000 participants
  - Wiseman Aviation added a lift that can serve all aircraft from a Boeing 737 to a Boeing 777
  - Enplanements rose in August
  - Community Investment
- Beautification in action grants
  - Two utility boxes wrapped
  - Chocolita Mural
  - Library entry update
  - Flower Project
  - Airport Gateway
- ParkFlag
  - Annual Report
  - Red curb repainting
  - Community Updates
  - Southside Neighborhood
  - Numbers up 8% over 2022
- Business Attraction
  - Arizona Liver Health
  - Significant interest from retail, restaurant, and hospitality sectors
  - Incentives -- The Development Reinvestment Incentive
  - AAED

- Business Retention and Expansion
  - BR&E Incentive
  - Workforce Development RSOQ
  - Joy Cone Company grant that was written by John Saltonstall to help with the rail spur
- Library
  - Door count up 3.78%
  - Computer use up
  - Ribbon cutting on Friday for the new ADA Main Library Entrance
  - New Library website
  - Game night
  - Youth Services
  - Fixed up Teen Zone
  - Library Card Signup Month
- Tourism & Visitor Center
  - Occupancy and Visitor rate is up
  - 12 print and 55 digital articles
  - Film is taking off
  - Website drive market was strongest seen in months
  - Leaf
  - Trails passports
  - Social media engagement increase
  - Meeting/Events/Conferences
  - Creative Services
  - Leafometer
  - Pledging for the wild
  - Business One Stop Shop
  - Annual Partner Meeting event

Mayor Daggett asked if there has been a discussion about changing marketing if the federal government shuts down. Ms. Hansen referred back to the last government shutdown and spoke about the work that the Visitor Center staff did to help visitors come up with a new itinerary.

6. Review of Draft Agenda for the October 3, 2023 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

None.

7. Discussion on the Development of the Citywide Comprehensive Cost Recovery Policy

Management Services Director Rick Tadder shared that this item came from the FAIR process and introduced MGT America Project Consultant Alan Parks, Project Director Lisa Norman, and Project Manager Alex Ali. Mr. Parks presented information on the cost recovery policy and timelines for the current policy. Slides included:

- Who We Are
- MGT Objectives and Goals
- Timeline
- Why a Cost Recovery Policy
- Elements of a Cost Recovery Policy
- Establishing Cost Recovery Rate
- Application of the Cost Recovery Policy

8. Carbon Neutrality Plan Biannual Update

Climate Action Section Director Jenny Niemann, Resilience Analyst Genevieve Pearthree, and Climate Engagement Analyst Jenna Ortega gave an update on the efforts over the past eight months to advance the Carbon Neutrality Plan. She distributed a flyer on climate action that was created from feedback from Council. They provided a PowerPoint Presentation that covered the following:

- Today's Discussion
- Our Climate Team
- Foundations of Climate Action
- Flagstaff's Climate Goals
- Reducing Emissions
- Building Resilience
- Prioritizing Equity
- CNP Target Areas
- Neighborhoods
- Energy
- Consumption
- Commitments
- Climate Action Principles
- The ingredients for Carbon Neutrality
- Community Action
- Policy Development
- Community Infrastructure
- Spotlight: Four Corners Carbon Coalition
- Services
- Spotlight: Floodproof Assistance Program
- Spotlight: Energy Rebates
- Spotlight: Solar United Neighbors (SUN)
- Capacity Building
- Spotlight: Youth Climate Summit
- Municipal Operations
- Dara Analysis
- Spotlight: EV Procurement
- Spotlight: Fleet Electrification
- Municipal Carbon Neutrality
- Spotlight: Energy Conservation Project
- Zooming Out
- What's Next
- Grant Application Update
- Upcoming Council Presentations
- Important Dates
- The CNP Emissions Reduction Wedge
- Help Build a Stronger Flagstaff

Councilmember McCarthy asked about the carbon dioxide removal in the CNP and asked staff to focus on how they will go about the removal in the future. Ms. Niemann stated that staff will focus on that and that the Four Corners Carbon Coalition really focuses on that.

Vice Mayor Aslan spoke about the citizen petition regarding flooding, fire, and drought that is coming before the Council in October. He asked Ms. Niemann to share their thoughts on the Citizen Petition that will be coming forward. Ms. Niemann spoke about the previous revision of the plan and how that increased the target areas. She added that combating flooding, fire, and drought requires collaboration, and they are currently focused on those collaborations and working with their partners. She stated that staff may need to do a better job at lifting their partnerships. Sustainability Director Nicole Antonopoulos discussed the assessment that was held in 2012 and stated that there is an opportunity to have a joint conversation with Fire, Sustainability, and Council where they can address these issues.

Vice Mayor Aslan asked about the flyer and if it was ready for distribution. Ms. Niemann stated it is

ready for distribution and they have a distribution plan.

Councilmember Harris raised several questions for future meetings, including concerns about the City's climate goals and affordable housing. Ms. Niemann responded that if the City does not meet its 2030 goal, it will need to adjust its plans, focusing on addressing issues like flooding, fire, and drought, while continuing to build resiliency. She emphasized that future climate models would guide these adjustments. Regarding public transportation, Ms. Niemann was asked about the City's collaboration with NAIPTA to ensure broad access, though the response was not included in the summary. She also addressed the accessibility of public charging stations and funding programs, noting that information on the floodproof funding program had been shared through door-to-door outreach and open houses, with additional community engagement supported by AmeriCorps members. On affordable housing, Ms. Niemann acknowledged the challenge of rising costs and explained that the City is working with the Housing Section to promote sustainable, cost-efficient housing. Efforts include incentivizing density, adding more housing, and launching an ADU (Accessory Dwelling Unit) survey to increase housing supply and offer greater neighborhood access.

Councilmember Sweet stated that she is excited about the ADU discussion.

Mayor Daggett asked about the incentives for those who are flood-impacted. She asked if the money could go towards purchasing flood insurance. Ms. Niemann stated that the money cannot be used to purchase insurance. Ms. Ortega replied that the funding must be used for dry floodproofing.

Mayor Daggett spoke about the ADU pilot project and how they had discussed creating approved ADU plans to share. She asked what is involved in the pilot project. Ms. Pearthree addressed the program and model plans. She added that the group felt they needed a better understanding on what the barriers to building an ADU is, so they are targeting the survey first. Mayor Daggett asked if the survey is available online and Ms. Pearthree stated that it is available on the community forum site.

Public Comment:

- Jill Stephenson addressed Council and stated that the Sustainability Department was on today's agenda and she believes it was mistake that they were not invited to Council meetings regarding the NAH rezoning.
- Dee Hoagland addressed Council and stated that according to the IPCC report, radical changes are required on the systemic level and every available measure must be taken to keep global warming below .5 degrees. She quoted the IPCC and recommended a prompt implementation of the Carbon Neutrality Plan.
- Andy Fernandez addressed Council and spoke about corruption, family communities, greed, and the housing market.
- John Fegyveresi addressed Council and stated he teaches climate science class at NAU. He stated he would like to see a diagram of where the emissions are going up and going down. He would like a better understanding of all the data they presented.

Mayor Daggett asked if that will be in the next update and Ms. Niemann stated that they are planning to break that out. The greenhouse gas analysis is done every two years. Ms. Antonopoulos added that they have tried to establish a really strong foundation for what they need to do and that the needle is moving slowly now due to funding and setting up policies. The needle has not moved a lot yet, because the policies need to be aligned with the goals to launch successfully.

9. City Code Updates for Bushmaster Park Sport Courts with Lighting Controls

Assistant Parks and Recreation Director Amy Hagin led a discussion on sport-courts hour of play.

Slides included:

- Current Hours -- Lighting and Park Hours
- Sunday through Thursday 5 am to 10 pm
- Friday and Saturday 5 am to 12 am
- Unless Permitted for Use otherwise
- Peer Cities Reviewed
- Equity considerations

Mayor Daggett asked if the hours at Thorpe Park are on during the hours that were previously listed, and Ms. Hagin confirmed those are the hours.

Vice Mayor Aslan asked Ms. Hagin what the general consensus was during the Bushmaster Park pickleball discussion. Ms. Hagin stated that there was a lot of back-and-forth discussion because there was already lighting at the locations. The discussion included lighting on the new pickleball courts. Vice Mayor Aslan stated that he is amenable to considering less hours of operation and that it would influence the Dark Sky consideration.

Councilmember McCarthy stated that he agreed with Vice Mayor Aslan. He asked if staff is taking into account that some of these activities are right up to people's yards while other activities are very remote. Ms. Hagin stated that they reviewed what other municipalities are doing, and that a lot of other municipalities are doing this. User groups are stating that they are not playing late into the night, but that there are some misuses of sport court lighting and that is why they are recommending sport court lighting hours and park use times are limited. Councilmember McCarthy stated that he supports a much earlier limit on lighting which would affect how much noise is created. He suggested 8:00 p.m. as an end time.

Mayor Daggett stated that she supports an earlier time as well and wondered if there was data on general park usage between 8:00 p.m. and that10:00 p.m. Ms. Hagin stated that the staff suggestion is for consistency.

Vice Mayor Aslan stated that he is having a hard time with consistency, and it makes more sense to limit it to a formula with the sunset.

Councilmember Harris stated that we need to be considerate of staff that has the job of enforcing. She would much rather set a time.

Councilmember McCarthy addressed being consistent with other cities. He added that he does not think we should follow their lead and suggested 8:00 p.m. again.

Councilmember Sweet stated that the time should be consistent. She added her comfort zone is 9:00 p.m. and 10:00 p.m. may be late for this community.

Mayor Daggett asked if the park lights are programmed individually or from a center location. Ms. Hagin stated that the lights are on a timer. Mayor Daggett expressed that she thinks the lights should be uniform and that the hours should end by 8:00 p.m. or 9:00 p.m. She stated that all Councilmembers feel that the lights should extinguish before 10:00 pm.

Public Comment:

- Laura Shearin addressed Council regarding the installation of pickleball courts and how they are negatively influencing the neighborhood. She asked Council to consider the neighbors in the area, especially people who live without air conditioning. She asked for lights to not be installed so that there will be an end to pickleball play based on the light. She stated that eliminating lighting would cut costs and that could be redirected towards sound mitigation.

- Andy Fernandez addressed Council and stated that lights are not needed.
- Audria Smith addressed Council and stated that the sound of pickleball ruins her enjoyment of her home. She spoke about how pickleball will cause her home value to go down. She added that pickleball should have its own set of rules attached to it. She stated that she would like the lights out for pickleball at 8:00 pm and basketball at 10:00 pm.

Mayor Daggett asked about Ponderosa Park and if it had lights on the courts. Ms. Hagin stated that it does not have lighting. Mayor Daggett asked Ms. Hagin to share her thoughts on the usage of Ponderosa Park versus parks with lighting. Ms. Hagin shared that Ponderosa Park is a neighborhood park versus. Bushmaster which is a community park. She spoke about the park being in disarray since the flooding, but that the court is working. She addressed the lightning at the other parks and the nighttime usage.

Vice Mayor Aslan stated that he believes that there should not be lights at Bushmaster Park for pickleball and that he would be fine to not have lights at the other sports courts. He stated that it takes care of the variable schedule and that maybe there should be a monthly schedule for shut off, however he agrees that it should be less complicated. He stated that lights should not be put up on the new pickleball courts. He added that 10:00 p.m. is too late, but 8:00 p.m. may be too early. He stated that he prefers not having lights go on at Bushmaster.

Mayor Daggett asked Ms. Hagin to share her perspective on not having lights or variable times. Ms. Hagin shared some history on lighting the parks and how they used to be off from October 15 to April 15. Ms. Hagin suggested that the decision should be the same for both parks to ensure equity. For a seasonal change, staff can do that and accommodate. They can work with enforcement on that. She mentioned the new Park Ranger position and stated that consistency matters to the community as well.

Councilmember Matthews asked about the lights at Bushmaster Park and if they are on a usage basis. Ms. Hagin stated that the lights are on a timer that can be turned on for one hour, but that the lights cannot be turned on after 10:00 p.m. She stated that she supports the time of lights off at 9:00 p.m.

Councilmember McCarthy spoke about comparing Flagstaff to other cities in Arizona and stated that he likes the idea of not having any lights at Bushmaster. He is comfortable leaving the lighting in at Thorpe Park. He suggested not having any lighting at the sports courts at Bushmaster.

Councilmember Harris stated that she would be concerned about having no lighting and not having an official start time.

Ms. Hagin spoke about the existing lights at Bushmaster. She stated that the removal of those lights would potentially create a migration of pickleball to other community parks. Council all agreed on lights going out at 9:00 p.m. at the latest. Ms. Hagin stated that the pedestrian lighting would stay on. Ms. Hagin asked about park hours direction as well.

Mayor Daggett suggested 9:00 pm for sport courts lighting and 10:00 pm for park closures. Council agreed.

10. Public Participation

None.

11. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember Sweet shared that she will be virtual at next week's meeting.

Mayor Daggett stated that she, Vice Mayor, and Councilmember Sweet will be at the Downtown Association Conference next week and will attend the meeting virtually.

12. Adjournment

The Work Session of the Flagstaff City Council held September 26, 2023, adjourned at 5:44 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, FEBRUARY 27, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Daggett called the Work Session of the Flagstaff City Council held February 27, 2024, to order at 3:03 p.m.

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 work session, 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.

PRESENT:	ABSENT:
MAYOR DAGGETT (virtually)	
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER HOUSE (arrived at 3:55 p.m.)	
COUNCILMEMBER MATTHEWS	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SWEET	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Matthews read the Mission Statement of the City of Flagstaff, and Vice Mayor Aslan read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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

4. Public Participation

Public Participation enables the public to address the Council about an item that is not on the prepared agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. Public Participation appears on the agenda twice, at the beginning and at the end. If you wish to address the Council 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 Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

Jill Stephenson, a volunteer with the Northern Arizona Climate Change Alliance, addressed Council regarding the impacts transportation has on the climate crisis. She spoke about electric fleets and their positive impact on the environment, grants available for electric vehicles, and stated that the City's fleet must be converted to electric as soon as possible to achieve carbon neutrality.

Alaxandra Pucciarelli, Current Planning Manager, and the staff liaison for the Planning & Zoning Commission addressed Council to speak about the three vacancies on the commission.

Dapper Dre addressed Council regarding planning for a future that is not car-centric and to account for people in transportation planning for the future.

5. Review of Draft Agenda for the March 5, 2024 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

None.

6. City Manager Report

City Manager Greg Clifton briefly reviewed his report and highlighted the recent following events.

- ACMA Conference
- NAU MPA Curriculum at ACMA Conference
- Visit from Senator Kelly
- Visit from Representative Cook
- Athena Award
- Engineering Week
    - City Engineer Paul Mood visited Mr. Langmade's 7th Grade class and Tynkertopia

Economic Vitality Director Heidi Hansen gave a few highlights from the Economic Vitality Division Report. Highlights included:

- Airport
    - Airport Rescue Fire Fighting trainings
    - Air Service Data Seminar
    - Fire Sprinkler project
    - Fencing Project
    - Enplanements & Operations numbers increased over 2.5% in January.
- Aspen Bicycle and Pedestrian Enhancements
- City Hall Railings
- DCC Southside Grove Sculpture
- Flowers Program to expand
- Utility Cabinets
- Promotion of Kristen Crujido

- Six kiosks had to be repaired for ParkFlag
- ParkFlag meeting with partners regarding towing cars that are not parking correctly
- Parking revenues were up
- Financial Fitness in Action
- Local First Green Business Bootcamp
- Joy Cone Company Grant to Deliver improvements to the rail spur
- Innovate Waste
- Helios-ASU Decision Center
- Library
  - oYouth Services programs
  - Three new staff members at circulation
  - IT printers and security cameras update
  - Crafting corners at East Flagstaff Library
  - Richard Tutwiler won the Aspen Award
  - Library stats
- Tourism
  - January 2024 metrics impacted by low snowfall and more hotel rooms that are online
  - James Beard awards and an article in Arizona Republic
  - Smithsonian Magazine
  - 3TV/CBS 5
  - 2 AOT media FAMS
  - 1 Film permit issued
  - Discover Flagstaff conference with two location scouts
  - International markets had increased engagement sessions for the Website.
  - Top Facebook post congratulating Chef Sam Greenlaugh
  - Instagram reel on Bearizona had a 1.7million impressions
  - Visit USA France
  - Stories on Stargazing
  - Arizona Office of Tourism Sales
  - Three leads were sent in the month of January for Conferences
  - Visitor Services is doing well
  - Skate at the Station
  - Examples of Creative Services

Councilmember Matthews asked if Ms. Hansen had an update from Breeze Airlines. Ms. Hansen stated that they are discussing the John Wayne Airport in Orange County. She also spoke of a meeting about six weeks ago with United about coming back since the load factor was at 90% and they are looking at coming back in 2026.

Vice Mayor Aslan asked about the new film office marketing campaign that was discussed at the Tourism Commission meeting. He asked Ms. Hansen to share that with the Council in the future and she stated that she would bring it back to Council.

Mr. Clifton announced that Indigenous Commissioner Mariah Zavala was nominated for the Athena Young Professional Award. She also received the Ambassador of the Year for the Greater Flagstaff Chamber of Commerce.

7. 2024 Amendments to Engineering Design Standards, TITLE 13

Development Engineer David Millis provided a presentation that covered the following topics:

- Purpose of Engineering Standards
- Reason for Amendments
- Intended to be Administrative Changes not Policy Changes
- Amendment Process
- Schedule and Public Input
- Highlighted Updates
- Potential Future Updates

Vice Mayor Aslan raised a concern about the Active Transportation Master Plan (ATMP) not being

included in the reasons for recent amendments and updates, suggesting that it could be an important factor. He acknowledged that Mr. Millis is planning to address Council priorities and policies in future discussions but emphasized that the ATMP should be considered in the current conversations as well.

Mr. Millis explained that the current amendments were intended to clean up and prepare for a more comprehensive review of engineering standards. He noted that the focus had been on administrating existing codes efficiently, as there was a backlog, and that broader policy changes, including those related to the ATMP, were being handled through audits and studies. The goal was not to prioritize the cleanup over the ATMP but to manage the necessary updates while other, broader changes were being addressed.

Councilmember Harris raised a point about private hydrants, and Mr. Millis clarified that while most hydrants are public, many municipalities distinguish between public and private water mains on site.

Vice Mayor Aslan suggested outreach to the Sustainability Commission, which Mr. Millis agreed to include.

Public Comment:

- Russ Randall, expressed concerns about rolled curbs in the engineering standards.
- John Sutherland from Capstone Homes addressed Council in favor of rolled curb change to subdivisions to help out with the driveways. He stated is was more efficient way to create rights-of-way to provide driveways for homes. He also offered comments about being ADA accessible and affordability.

Councilmember McCarthy asked Mr. Sutherland if there was a middle ground between rolled and vertical curbs. Mr. Sutherland explained that both are MACS standards, and modifying rolled curbs would require discussion. Councilmember McCarthy challenged staff to find a way to make rolled curbs less steep.

Vice Mayor Aslan suggested postponing technical decisions until the Council better understands the community's values, pointing out that the issue of curbs needed broader consideration.

Councilmember Sweet raised the issue of adding yellow tape to existing lights and mentioned grants being explored for improvements. She also noted the need for better education on pedestrian signals and signage about not parking on sidewalks.

Councilmember McCarthy expressed concerns that rolled curbs would make it difficult for people in wheelchairs to access the street or cross. He emphasized the need to improve traffic signals and visibility, particularly on east-west streets where the sun affects drivers.

Mayor Daggett stated she was a long-time critic of rolled curbs and questioned their practicality, suggesting that sidewalks should prioritize pedestrian transportation. She asked for alternative options that address both rolled and vertical curbs, particularly for stormwater management. City Engineer Paul Mood agreed to bring back options in a future round of updates.

Mr. Clifton suggested that the issue of rolled curbs could be discussed further in a work session, noting that rolled curbs were seen as less obstructive for adaptive users than vertical curbs.

Councilmember McCarthy agreed that vertical curbs were more obstructive but pointed out that rolled curbs might affect driveways less.

Councilmember Harris requested that staff provide cost details and recommended locations for rolled curbs when revisiting the issue.

Councilmember Matthews suggested moving the discussion of rolled curbs and streetlights to the second phase to avoid delaying the cleanup process.

Councilmember House raised concerns about the education component, citing confusion at a pedestrian crosswalk on Old Route 66.

8. Butler Avenue Corridor and Pilot Bicycle Lanes Update

Engineer Associate David Lemcke, Streets Manager Sam Beckett, and Development Engineer David Millis provided a presentation that covered the following:

- Pilot Bike Lane Update
- Winter Service Reductions City-wide
- General Service to Infrastructure
- Sharrows
- Speed Study
- Overview of Speed Study
- Context Example
- Speed Limit Maps
- Vehicle Speeds and Safety
- Arizona Revised Statutes
- Current Posted Speed Limits
- Speed Zoning Concepts
- Butler Ave Study Results
- Discussion
- Recommendation
- Future Projects
- Safe Streets for All Grant
- Lone Tree Overpass
- Committee and Commission Feedback
- Conclusions/Staff Recommendations
- Potential Council Options

Councilmember Matthews asked if it would be possible to make the speed limit on Butler consistent across the entire area, as current speed limits differ, particularly at Lone Tree due to land use changes. Mr. Millis explained the distinction was based on the land use changes and was not sure if there was anything preventing the Council from making it uniform.

Councilmember Harris inquired about the length of time for a speed limit study. Mr. Millis responded that data was collected 24/7 over 9 days.

Councilmember McCarthy asked about guidelines for changing speed limits, mentioning that Arizona law restricts making more than six speed limit changes within a mile. He also asked if speed limits could be adjusted in ten-mile increments.

Public Comment

- Dapper Dre
- Matthew Weiss
- Jeffrey McCarroll
- Geoffrey Whittaker
- Ryan Drendel
- Joseph Koenig
- Adam Shimoni
- Tyler Denham
- Sam Meier
- Anthony Quintile
- Nadine Hart

Comments included:

- Include cross-traffic consideration in the study

- Support of lower speed limits
- Maintain the separated lanes
- Physical barriers being safer than painted lines
- More bike lane separators and how to place them for trash pickup
- Lessen the financial impact
- Create effective enforcement
- Bike commuting challenges
- Expanding snow removal to bike lanes
- Doing another speed study after speed has been reduced
- Pilot was to support 60% population of possible riders but exploring other approaches for lane separators
- Suggesting East Butler should be 30 MPH.
- Requesting the alternative designs that have been considered to reduce maintenance and still provide safety, such as hard rubber.

Written comments in support of lowering the speed limit on Butler and maintaining the bike lane barriers were submitted by the following:

- Lydia Bailey
- Matt Eckhoff
- Daniel Paduchowski
- Heidi Larson
- Izzie Speer
- Dara Marks-Marino
- Sasha Heinen

Mary Christina Burton submitted a written comment in support of removing the bike lane barriers and raising the fines for motorists who hit cyclists.

Mayor Daggett confirmed that staff was directed not to remove separated bike lanes or barriers.

Councilmember Matthews reiterated that she still supports lowering the speed limit to 30 MPH on Butler, extending it to Sawmill Road. She believes it aligns with Flagstaff's identity as a university and tourism town, and promoting health and wellness. She also expressed excitement about an upcoming grant expected to be completed by 2026.

Vice Mayor Aslan emphasized the importance of respect for staff, acknowledging the ongoing debate and research on both the speed limit and bike lanes. He supported reducing the speed limit to 30 MPH all the way to Sawmill Road, with a return to 40 MPH beyond. He also advocated for keeping the concrete barriers, citing safety concerns for pedestrians and cyclists, especially in snowy conditions. He argued that maintaining these elements is essential for Flagstaff's commitment to being a multi-modal community.

Mr. Clifton explained that while some barriers were removed due to safety issues, staff remains concerned about snow removal challenges and the visibility of barriers. He emphasized the need for education on bike lanes and expressed that the issue of speed limits remains contentious.

Councilmember McCarthy supported lowering the speed limit to 30 MPH between Milton and Lone Tree, with a possible 30 or 35 MPH limit to Sawmill.

Councilmember Sweet also supported reducing the speed limit to 30 MPH between Milton and Sawmill, followed by 35 MPH. She backed continuing the barriers but suggested exploring alternatives to concrete, which degrades over time. She also highlighted the issue of cinders on the roads, which impedes cycling.

Councilmember Harris agreed with lowering the speed limit to 30 MPH from Milton to Butler and suggested leaving the barriers in place. She also called for a kinder, more respectful approach to staff.

Councilmember House expressed her agreement with the proposed speed limit changes and echoed the need for mindfulness and unity within the community.

Mayor Daggett supported lowering the speed limit to 30 MPH to Sawmill and 35 MPH afterward, emphasizing Flagstaff's commitment to Vision Zero.

Mr. Lemcke clarified that reducing the speed limit by 5 MPH alone, without design changes, would likely not have a significant impact on driver behavior. However, he supported the proposed speed limits due to the design changes already implemented and those planned.

Councilmember McCarthy noted that while a 5 MPH change might not drastically reduce speeds, it would still have some effect, though likely not as much as Council hopes.

Mr. Lemcke agreed that studies suggest a 5 MPH reduction may not significantly change speeds but acknowledged the Council's intent to implement slower speeds with the new designs.

9. Public Participation

None.

10. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember House stated she attended the Black Renaissance Gala with Councilmember Harris and Councilmemebr Sweet.

Councilmember Sweet stated she attended the High-Country Academy graduation and the Black Renaissance Gala.

Councilmember McCarthy stated his grandfather fought to preserve democracy during WWI and his father served in WWII. He stated that the Ukraine is the second largest European country and believes the City needs to continue support of Ukraine. He requested a FAIR item for a resolution to be sent to our representatives in support of the aid bill for Ukraine.

Councilmember Harris stated she attended the Black Renaissance Gala. She addressed the two current emergencies: Housing and Climate. She was inquiring if all of our commissions understand each other's plans stressing that city and it's commissions must work together to support the two emergencies.

11. Adjournment

The Work Session of the Flagstaff City Council held February 27, 2024, adjourned at 6:25 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL SPECIAL MEETING / WORK SESSION
TUESDAY, MAY 14, 2024
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Daggett called the Special Meeting of the Flagstaff City Council held May 14, 2024, to order at 3:03 p.m.

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 special 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.

PRESENT:	ABSENT:
MAYOR DAGGETT	
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MATTHEWS	
COUNCILMEMBER MCCARHTY	
COUNCILMEMBER SWEET	

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Matthews read the Mission Statement of the City of Flagstaff, and Councilmember House read the 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. Review of Draft Agenda for the May 21, 2024 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

Councilmember House acknowledged that there was a proclamation added for Asian American Pacific Islander month would be on the next agenda.

5. 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.

Dennis Givens addressed Council to highlight select small businesses in Flagstaff and emphasized how important it was to support small businesses.

Sierra Frydenlund addressed Council regarding the maximum tow fee. She shared a story of her car being towed and asked Council to set a maximum rate for private tow companies.

Kathleen Griffiths from the Salvation Army presented the City of Flagstaff with an award from the William Booth Society. Councilmember McCarthy thanked Ms. Griffiths on behalf of his grandfather. He stated that his grandfather fought in WWI and that the Salvation Army assisted medically in the field during WWI when other organizations would not.

Jill Stephenson addressed Council regarding fleet electrification and asked for a rapid electrification of the fleet using American Recovery Act funds.

Steven Puhr addressed Council regarding forecasting for the water and wastewater rates.

6. Recognition of Accomplishments in STEM

IT Director CJ Perry, who was also the coach for the Flagstaff Christian School's Lego Team, addressed Council and highlighted the accomplishments of the robotics teams. He added that two teams from Flagstaff competed in the First Robotics Competition. The Flagstaff Christian School presented their projects and then the Coconino High School Coconuts presented their projects.

Council shared their congratulations to the students.

Councilmember Harris asked if the CocoNuts could be included in discussions regarding the Council discretionary funds.

Vice Mayor Aslan asked that the CocoNuts be considered in the discussion for future funds as well.

7. **April Work Anniversaries**

Deputy City Manager Shannon Anderson presented the April Work Anniversaries.

8. **Consideration and Approval of Contract:** Construction Contract with Yellow Jacket Drilling, LLC for well site modification and drilling services.

1. Approve the Construction Contract with Yellow Jacket Drilling, LLC in and amount not to exceed $650,000; and
2. Authorize the City Manager to execute the necessary documents.

Moved by Councilmember Khara House, **seconded by** Councilmember Miranda Sweet to approve the contract.

Vote: 7 - 0 - Unanimously

9. **Adjournment**

The Special Meeting of the Flagstaff City Council held May 14, 2024, adjourned at 4:14 p.m.

WORK SESSION

1. **Call to Order**

Mayor Daggett called the Work Session of the Flagstaff City Council held May 14, 2024 to order at 4:14 p.m.

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 work session, 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. **City Manager Report**

City Manager Clifton shared a few highlights from his report including:

- HR Director recruitment was ongoing
- A recap of the Budget Retreat
- Presentation to the County Board of Supervisors sitting as the Board for the Coconino Flood Control District on the Rio de Flag Flood Control Project on April 23, 2024
- Washington D.C. trip recap
- 2024 Election information
- Beulah/University Realignment Project update and video
- Linda Vista Culvert utility relocation
- The recognition of Police Chief Dan Musselman by the Northern Arizona University's Department of Politics and International Affairs with the MPA Public Service Award
- Water main repair on 4th Street on May 7, 2024

Parks, Recreation, Open Space, and Events Director Rebecca Sayers gave a few updates including:

- The development of the new mission, vision, and values for the Division
- Trail counts from March
- Turf maintenance
- Certified staff numbers
- Facility closures for maintenance and cleaning

- Upcoming Hockey Tournament
- Daddy Daughter Ball
- Open Space volunteer appreciation luncheon
- In-class lesson at Cromer Elementary School
- Concerts in the Park
- Other summer programming

City Manager Clifton commented on the creation of the PROSE Division and the growth of the Division.

3. **Mountain Line Today and Beyond Updates and Transit Tax Discussion**

Mountain Line CEO and General Manager, Heather Dalmolin, Mountain Line Strategic Planner Busy Collins, and Mountain Line Capital Development Manager Ann Dunno provided a PowerPoint presentation that covered the following:

- Financial and Service Performance Benchmarks
- Peer Agency -- Bus
- Peer Agency -- Paratransit
- Downtown Connection Center Progress
- DCC Ultimate Buildout

Councilmember Sweet stated that she was excited about the Downtown Connection Center (DCC).

Mayor Daggett stated that Representative Cook had asked about the DCC every time she spoke to him in the past year.

- Mountain Line Financial Update
- FY2024 to FY 2025 Comparison
- Transit Tax Fund Balance
- Flagstaff in Motion
- Transit Vision
- Flagstaff in Motion -- Funding
- Citizen Review Commission
- Survey Outcomes
- Refined Funding
- Recommendation
- Alternatives

Vice Mayor Aslan stated that he was supportive of an expansion of transportation. He asked how Ms. Dalmolin viewed the Water Rate Study and how that could affect the landscape for the transit sales tax. Ms. Dalmolin stated that there was always a reason to not be on the ballot, and that they feel it was important to ask the question to the voters now. Ms. Dalmolin stated that it is difficult to ask a voter for more money when money is more constrained. She added that it was important to ask the public if they were interested in expanding transit.

Councilmember Matthews asked Ms. Dalmolin about the previous transit tax. Ms. Dalmolin spoke about the history of transit tax propositions and stated that they could go back to the tax in 2008 and put a check next to every accomplishment.

Councilmember McCarthy asked about reduced service. Ms. Dalmolin addressed the CDL driver shortage and stated that there was reduced service on three routes.

Councilmember McCarthy spoke about historic tax rates and that the City's tax rate is now 9.181% not including the BBB tax. He shared that the tax on a hotel room in Washington D.C. is 31%. He stated that he was supportive of putting the transit tax on the ballot.

Councilmember Sweet asked about the buses that were used for FUSD. Ms. Dalmolin stated that they worked with the school district to provide bus passes.

Councilmember Harris shared that in larger cities it was normal for children to take public transit.

Jason Kordosky addressed Council regarding the potential of Mountain Line going fare-free. He stated that he was in support of Mountain Line to be fare-free to support sustainable transit.

Mayor Daggett shared that she was in support of the transit tax. She asked Council if they were in support of placing the transit tax on the ballot and all of Council shared their support of placing the question on the ballot.

4. **FY22-23 Neighborhood Sustainability Grant Projects Report**

Sustainability Coordinator Tia Hatton shared a presentation with Council highlighting the projects from the FY23 grant year and the accomplishments of the projects. The slides included:

- Neighborhood Sustainability Grant FY23 Final Report
- Neighborhood Sustainability Grant Program
- Building Community Through Food Series
- Project Accomplishments
- Killip Elementary Community Food Production
- Puente De Hozho Bike Park
- Building Community Resilience Thru Access, Education, and Connection
- Pelletizing Liability Biomass
- Increasing Community Resiliency through Native and Edible Plant Propagation
- Killip Elementary Youth and Community Horticultural Therapy Program
- Market of Dreams Remodel
- Bike Racks and Benches for Flagstaff Disc Gold Course
- Energy Efficiency Lighting Project
- Thank you

Ms. Hatton stated that the grant program would open by September 1, 2024 and that she would address Council at that time to ask for assistance with advertising the grant.

Mayor Daggett asked what the Sunnyside Project was. Ms. Hatton stated that the money went towards remodeling materials.
Mayor Daggett stated her appreciation and gratitude for the team

5. **Open Call to the Public**

None.

6. **Informational Items To/From Mayor, Council, and City Manager; future agenda item requests**

Councilmember House shared that May was Mental Health Awareness Month and that there was an Arizona Commission of African American Affairs meeting that focused on Juneteeth celebrations.

Councilmember Sweet stated that she was excited for the Cheshire traffic slowdown/art project.

Councilmember McCarthy shared that he attended the Train Day event and asked for a FAIR item to discuss towing and car storage charges and the use of cash versus credit cards.

Councilmember Matthews asked for a FAIR item to consider expanding the incentive programs and how to expand the program to local employers for workforce housing.

Councilmember Harris shared that she attended the Airport Commission meeting and that they would attend a national conference to "speed date" a new carrier. She also shared that Wiesmann Aviation had Coconino High School prom in their hanger. She also shared that she attended the Coconino High School graduation, and it was well attended.

Mayor Daggett shared that she met with the Director for the Foundation for Senior Living regarding their downtown project. She also reminded the public that there would be a water rate work session on May 16, 2024, and that there would be a Wiggles to Whiskers adoption and vaccination event later in May.

She also added that she met with the secretary of Veteran's Affair and that he gave out an 800 number for unsheltered veterans to find housing that evening.

7. Adjournment

The Work Session of the Flagstaff City Council held May 14, 2024, adjourned at 5:45 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATION

I, STACY SALTZBURG, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on November 7, 2023. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 19th day of March, 2025

_____
CITY CLERK

CITY COUNCIL SPECIAL WORK SESSION
THURSDAY, MAY 16, 2024
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Daggett called the Special Work Session of the Flagstaff City Council held May 16, 2024, to order at 3:04 p.m.

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 work session, 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.

PRESENT:	ABSENT:
MAYOR DAGGETT	
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER HOUS (virtually)	
COUNCILMEMBER MATTHEWS	
COUNCILMEMBER MCCARHTY	
COUNCILMEMBER SWEET	

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Sweet read the Mission Statement of the City of Flagstaff, and Councilmember Harris read the 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. Water, Sewer, and Reclaimed Water Rates and Fees Study Special Work Session

Water Services Community Engagement Specialist Sarah Jablon, Water Resources Manager Erin Young, and Water Services Director Shannon Jones addressed Council with an overview of the agenda for the discussion and started with a brief overview of the rate study.

Councilmember Sweet asked if there will be a video on the rate calculator on the website. Ms. Jablon stated that there would be.

Councilmember House asked about the outreach efforts regarding the website information. Ms. Jablon reviewed the outreach efforts.Senior Deputy City Manager Shannon Anderson added that a postcard was sent to Sunnyside and Southside neighborhoods for outreach as suggested by Council.

Councilmember Matthews asked if mailers were sent to the business community. Ms. Anderson stated that emails were sent to specific business owners.

Councilmember Matthews stated that she hoped that the water rate calculator would display the five-year impact. Ms. Young stated that staff was working on including that in the rate calculator.

Councilmember McCarthy asked if the pipe breakages were caused by the freeze and thaw cycles and if there were more breakages here than in Tucson or Phoenix. Mr. Jones confirmed that breakages were impacted by the freeze and thaw cycles, and he added that Flagstaff was more transparent about pipe breakages. Councilmember McCarthy also suggested that education is needed to inform the public of what the costs would be if the infrastructure was not funded. He also noted that Prop 441 is subsidizing water rates with property taxes.

Councilmember Matthews shared her discomfort with raising rates to minimize impacts to the community. She asked about the drastic increase in the budget between FY24 and FY25 in the Fixed Operations and Maintenance Cost. Mr. Jones spoke about the right sizing that would happen in the first year and the impact of moving one-time costs to ongoing costs.

Councilmember Sweet asked about doing a yearly review on the rates. Mr. Jones shared that the annual occurrence would happen during the budget development and that there would be a cost of services analysis every three years. Mr. Jones added that it would allow staff to be nimble year to year.

Councilmember McCarthy spoke about the inflation rate. He presented an idea that the City could increase property taxes, but he felt that was not a good idea.

City Attorney Sterling Solomon stated that Council could take public comment before the consultant's presentation.

Public Comment:

- John Nauman addressed Council and spoke in support of the water rates increase. He suggested that there be a focus on retaining staff.
- Josh Maher, Associate Vice President for Community Relations at NAU addressed Council and spoke in objection to the water rate increase. He asked for a revised rate structure specific for NAU.
- Ward Davis addressed Council and spoke in support of the water rate increase.
- Steven Puhr addressed Council and spoke about the cost escalation factors and models and stated that he found them to be inaccurate.
- Regina Salas on behalf of Northern Arizona Lodging and Tourism Association addressed Council in opposition to the water rates increase.
- Joe Galli from the Northern Arizona Chamber of Commerce addressed Council in opposition to the water rates increase.
- Nicole Ellman addressed Council in opposition to the water rates increase.

Written public comment was received from Michele James requesting a more equitable balance for cost of service and to explore the possibility of higher capacity fees for larger homes.

Carol Malesky from Stantec addressed Mayor, Vice Mayor, and Council regarding water services management, operations and maintenance, capital improvements, and the rate study itself her presentation covered the following:

WATER RATE STUDY OUTREACH
JOIN US AND SPREAD THE WORD
COMMUNITY DEVELOPMENT
WEBSITE UPDATE
MARKETING AND ADVERTISING
COUNCIL DISCUSSION
WATER RATE STUDY PRESENTATION
CITY SERVICES
INTRODUCTION TO WATER SERVICES
OPERATIONS AND MAINTENANCE
GENERAL INCREASES IN COSTS
INSUFFICIENT FUNDING IMPACTS
BENEFITS OF FUNDING
OPERATIONS AND MAINTENANCE WATER DISTRIBUTION LINES
OPERATIONS AND MAINTENANCE: SEWER COLLECTION LINES
CAPITAL IMPROVEMENTS
CAPATIAL IMPROVEMENT PLAN (CIP)
CIP -- WATER
CIP- WASTEWATER
CIP-WASTEWATER UNFUNDED LIST
CIP WASTEWATER
CIP -- WASTEWATER UNFUNDED LIST
CIP RECLAIMED
CIP RECLAIMED UNFUNDED LIST
CIP: WILDCAT INTERCEPTOR LINE
CIP LAKE MARY SEDIMENTATION BASIN
CIP FUNDING
RATE STUDY BACKGROUND
RATE STUDY PRIORITIES
RATE STUDY MODEL ASSUMPTIONS
RATE DESIGN PRIORITIES
PROPOSED WATER RATES
PROPOSED SWER RATES
PROPOSED RECLAIMED RATES
CAPACITY FEES
MISCELLANEOUS FEES
RATE CALCULATOR DEMONSTRATION
RATE CALCULATOR -- RESIDENTIAL EXAMPLE
RATE CALCULATOR -- COMMERCIAL EXAMPLE
RATE STUDY COUNCIL DIRECTION
COUNCIL DISCUSSION

Councilmember Matthews asked about the debt coverage ratio. Ms. Malesky reviewed the calculations and stated that the City does not have to make the 2.4%.

Councilmember Matthews asked what the annual increase would be beyond FY29. Ms. Malesky stated it would be 5% for the first five years and decrease after that. Councilmember Matthews asked what would happen if this was spread over more years so the increase is not as significant. Ms. Malesky stated that the escalation factor took into account ten years. She explained how the Capital Improvements Program will help smooth over the years. She reiterated the discussion this evening was focused on the escalation and took into account inflation.

Ms. Malesky stated that after going through the scenarios they have so far that she would like to hear any Council questions so she can look into them and prepare for next week's meeting to go into this

topic further.

Mayor Daggett asked Council for their questions and to continue the discussion until the next meeting.

Councilmember Matthews stated that she would not be in attendance next meeting. She stated that she would like to revisit what the smooth transition was and to search for an alternative to this option. She stated this option would be devastating.

Vice Mayor Aslan asked for an analysis on the feasibility that an alternative could be found that was significantly different than what was presented.

5. Adjournment

The Special Work Session of the Flagstaff City Council held May 16, 2024, adjourned at 5:03 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION
TUESDAY, MAY 28, 2024
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Mayor Daggett called the meeting of the Flagstaff City Council held May 28, 2024, to order at 3:04 p.m.

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 work session, 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.

PRESENT:	ABSENT:
MAYOR DAGGETT	COUNCILMEMBER MATTHEWS
VICE MAYOR ASLAN	
COUNCILMEMBER HARRIS	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MCCARTHY	
COUNCILMEMBER SWEET	

Others present: City Manager Greg Clifton; Deputy City Attorney Kevin Fincel.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Harris read the Mission Statement of the City of Flagstaff, and Councilmember McCarthy read the 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.

Community Stewards Coordinator Sanoma Boynton addressed Council regarding the Watershed Cleanup Series.

Nadine Hart addressed Council regarding the water rates increase and how it would impact housing choice voucher recipients who live in single family homes.

Assistant Director of the Coconino County Workforce Development Board Regina Salas invited Council to the Arizona Workforce Summit.

A break was held due to audio issues from 3:14 p.m. through 3:48 p.m.

Dapper Dre addressed Council. He started with a moment of silence for Joanna Wheaton who was killed in the bicycle tragedy three years ago. He spoke about the efforts that have been made since the accident. He stressed the importance of bicycle infrastructure.

5. Review of Draft Agenda for the June 4, 2024 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

None.

6. May Work Anniversaries

Senior Deputy City Manager Shannon Anderson presented the May work anniversaries.

7. Review and discuss Procurement Code Manual Amendment to revise Article 4 Definitions and add a new Article 32 Sustainable Procurement

Purchasing Director Patrick Brown led a discussion on the proposed procurement manual amendments. Slides in his presentation included:

- Overview
- Prelude
- Revised Article 4 related to Sustainable Procurement
- New Article related to Sustainable Procurement
    - Option 1 -- Objective and Measurable, Competitive

Councilmember House asked if there was a difference between will and may in the first sentences of the option. Mr. Brown stated that it depended on the relationship.

Councilmember McCarthy stated that he felt that it would be an overreach to have an entity list the current financing they provide with the fossil fuel industry. Mr. Brown stated that the list of current companies they do business with was a common request. Councilmember McCarthy stated that he did not feel it was appropriate, but Mr. Brown stated that asking them that question was very relevant to what the goal of the amendment was.

Mr. Clifton clarified Councilmember House's question that the first part of the paragraph indicated a mandatory reduction, and the second sentence addressed a discretionary addition. Mr. Clifton asked why one would be a firm requirement and the other would be discretionary. Mr. Brown stated that staff could make both coincide with each other and have them both read "will" rather than "may."

Councilmember Harris asked what would happen if a company did not want to disclose the information. Mr. Brown stated that the company could request for the information be kept confidential and that staff could work with them to ensure their comfort level and allow the information to stay somewhat vague.

Mayor Daggett asked about the legal parameters regarding redaction in an application. Mr. Brown stated that the applicant could request for their whole application be redacted and the legal team at the City reviews all the information to ensure that it is not confidential in general.

Mayor Daggett asked if the amendment options would be strictly for banking entities and Mr. Brown affirmed.

- Option 2 -- Less Objective and Competitive, Still Measurable

Councilmember Harris asked if there are organizations out there that could meet these standards. Mr. Brown stated that the Sustainability Division have identified organizations that meet these standards.

Sustainability Director Nicole Antonopoulos stated that there were third-party verification organizations that list fossil-free investment organizations. She added that there were currently three organizations in Arizona, and she would provide that list to Council.

Councilmember Harris asked what would happen if the City did not like to work with any of the banks on the list. Management Services Director Rick Tadder stated that any bank could reply to the request with options one and two. He stated that option three was the most restrictive and that would prevent other banks from applying. He stated that any bank could apply with options one or two, but that they may not receive full points due to their affiliations.

Councilmember Harris asked if they cannot provide all the services that the City needed, what would happen. Mr. Brown stated that the City would not do business with them if they were not able to provide the services requested. Councilmember Harris asked what the City would do if the highest scoring entity did not meet the requests, and Mr. Brown stated that staff would go with the next highest scoring entity. Mr. Tadder added that if the entity could provide 98% of services, staff may look for other contractual services to fill in the holes.

Vice Mayor Aslan asked if the amendments were deal-breakers or just part of the scoring. Mr. Brown stated that Options One and Two would be part of the scoring, but Option Three would be a yes or no question.

Councilmember McCarthy asked what the difference was between the first two options. Mr. Brown stated that option two was more restrictive.

- Option 3 -- Direct, Exclusion, Clear and Concise

Councilmember Sweet asked Mr. Tadder how in-person banking could be conducted if a bank was identified that was not in the City of Flagstaff. Mr. Tadder stated that the City would have to look to deposit cash at a local bank and then transfer or have the cash delivered by armored car. He added that both solutions would have a cost associated with them and were not ideal, but that they could be done.

- Future Revisions/Amendments
- Council Discussion/Direction
  - Which option would Council want staff to bring back for the Procurement Code Amendments?
    - Option 1
    - Option 2
    - Option 3

Mayor Daggett asked Ms. Antonopoulos what other cities were doing. Ms. Antonopoulos stated that there were a lot of examples and that they are seeing a lot of different approaches. She spoke about Boulder, CO using a fossil-fuel divestment in healthcare and building procurement. She stated there was a wide array of focus areas and that no other community in Arizona had moved forward with this divestment.

Councilmember McCarthy asked if there had been any interest in the issue at the state legislature. Mr. Brown stated that he had not seen any legislature specifically address this issue. Mr. Tadder stated that he had seen bills dropped at legislature and that it could come back around in the future. Councilmember McCarthy asked when the item would come back to Council and suggested that the item come back to Council on June 18, 2024, since Fossil Free Arizona was advised of that date.

Mr. Clifton stated that the email that he sent to Fossil Free Arizona did not have the finalized date. He suggested that the date could be moved. Mr. Clifton also spoke about the history of the discussion and that the current contract with the City's bank expired June of 2025. He added his concerns that solicitations could not happen in ample time if the policy was not decided soon. He added that there was some urgency on getting Council direction.

Vice Mayor Aslan asked if the conversation was only about banking services or if it would apply to other areas of procurement. Mr. Brown stated that the proposed amendments focused only on banking and that the other areas will be presented to Council in the future.

Mayor Daggett asked when staff would need everything together to go out for banking services. Mr. Brown stated that staff would have to start during the summer to get the solicitation out. He also spoke about the length of time required for the banking transition. Mr. Brown stated that staff would like to put an RFP out by the end of summer. Mr. Tadder stated that a lot of work would need to be done to get an RFP together. He also added his thoughts about the current financial services.

Mayor Daggett clarified and asked when a decision from Council was absolutely necessary. Mr. Tadder stated that he would like to see a decision before Council break, but it is not necessary. He stated his belief that he could extend the contract with Wells Fargo.

Councilmember Harris asked if the amendments would set the stage for everything else in purchasing. Mr. Brown stated that it could set the stage for everything the City was doing. He added that this amendment would be just for banking services.

Mr. Clifton stated that staff had proceeded with banking in mind due Council's request from two years ago. He also spoke about a bill to preempt local governments from putting forth criteria that spoke to Environmental, Social, and Governance (ESG) investing as metrics for consideration of the procurement process. He added that he expected to see it come forward again.

Public Comment:

Jill Stephenson encouraged exploring other financial organizations instead of Wells Fargo. She stated the City needs to stop supporting big oil and encourage sustainable procurement in all procurements.

David Spence encouraged the Council to divest from Wells Fargo. He stated that this was a step in the right direction.

Gail Jackson addressed what impact the decision on banking services could have on all developers in Flagstaff. She added that the restriction could create issues for other City crises.

Vice Mayor Aslan stated that the conversation would allow for the City to make decisions on working with companies that better hold to the City's goals. He added that he was interested in Option One. He added that it concerned him that no other municipality in Arizona had explored this topic and this option was a good way to "dip the toe in."

Councilmember House stated that she also supported Option One and that the other two options put too many limits on a potential partner.

Councilmember Sweet stated that she had been leaning toward Option Two, but that she believed that Option One was more viable.

Councilmember Harris stated that she was worried about Flagstaff always trying to be the first. She stated that she did not want to move forward with the amendments.

Councilmember McCarthy stated that he was torn between Councilmember Harris's point of view and Option One. He stated that the amendment really would not do much for climate change. He stated that he would go with Option One with some hesitation.

Mayor Daggett stated that she saw this measure as the same as updating the zoning code with an eye toward sustainability. She added that it would be one question of many and that it would allow the City to ask the right questions. She added that she was not interested in having any additional conversations on the topic. She stated that she supported Option One.

Mr. Brown stated that staff would come back with the resolution at the next regular meeting with the revision provided by Councilmember House.

8. **Review and discussion of the City of Flagstaff - Workforce Development Strategic Plan prepared and presented by Keen Independent Research LLC.**

Community Investment Director David McIntire introduced David Keen, Principal, and Dr. Nicole Yates, Senior Consultant from Keen Independent Research. They presented the preliminary results of the Workforce Development Strategic Plan to Council. The slides of their presentation included:

- Presentation overview
- Context
- Workforce development overview
  - Components of workforce development
  - Workforce Innovation and Opportunity Act
- Demographic and labor market trends
  - Population by age
  - Employment projections
- Existing workforce development resources
- Stakeholder feedback
- Case studies
- City Workforce Development Strategy
  - Priority sectors
  - Employment pathways
- Overall goals, target population, suggested actions, and timeframe

Councilmember House asked how they are envisioning the partnership between the economic development plan and the workforce development plan. Mr. McIntire spoke about the Economic Development Plan and how it was more regional than ECoNA's and explained that Stiletto and Keen worked together to ensure that the target sectors were agreed upon but that they did not limit the workforce development plan to the sectors, but also addressed support sectors. He referenced the workforce development ARPA funding that was used to fund internships for astronomy positions which highlighted how the two plans worked well together.

Councilmember House asked how this tied into the Business One Stop Shop (BOSS). Mr. McIntire stated that this study's findings would build upon it and that the BOSS would be used to funnel people to this information.

Councilmember House asked about the employment by industry projection that showed a decline in self-employed workers. Mr. Keen stated that the numbers shown in the projections were provided by the state and that there had not been historical growth in the area. He added that the people who hold four-year-degrees have not historically had a degree in business and that might have influenced the self-employed category.

Councilmember House asked about the case study comparisons. She commented on how there are not typically case studies within the same state and asked if that was because there were not comparable in Arizona. Mr. Keen stated that Flagstaff is a hub in Northern Arizona and that was an advantage. He added that Bend, OR and Missoula, MT were also in similar situations. He stated that it was difficult to even find a third city that matched and that was why Asheville, NC was used as a comparison.

Economic Vitality Director Heidi Hansen stated that it was important to do comparisons to other mountain cities because there are a lot of companies or airlines who do not want to deal with the altitude or the seasonality.

Councilmember Harris asked how the housing issue affected the study. Dr. Yates stated that they heard a lot of anecdotes that they included in the appendices regarding the cost of housing.

Mr. McIntire stated that the effort of supporting the construction and trade industry would help with addressing the construction worker shortage and bring down costs. He also added that bringing higher wage positions into the area would also help locals afford homes against the second home market.

Councilmember Harris asked if what was studied changed, would the plan be able to adapt. Mr. McIntire stated that staff would continue to work with partners to assess the study and results and that they would be building off each other as time moves on.

Councilmember Sweet stated that it was hard to make margins as a small business owner. She added that having a formal business group meet with the City, NAU, and CCC involved was a great idea.

Vice Mayor Aslan stated that he was also concerned about housing and asked about the affect AI would have on the employment landscape. Dr. Yates stated that the plan does consider AI and automation in the priority sectors.

Councilmember Sweet asked if the minimum wage was used in comparison to the other cities. Dr. Yates stated that the state study took the whole county into consideration for their projections.

Mr. Keen spoke about how the City could set the culture with implementing this data and made a pitch on how best the City could position itself to support businesses and employees.

Councilmember Harris asked how to do that. Mr. McIntire stated that a part of the plan was how to have this conversation and how to partner to make disparate voices work together

Ms. Hansen added that staff would look at all workers. She added that staff would continue to come back in front of Council and would work to ensure that no community would be left behind.

Public Comment:

Executive Director of Friends of Flagstaff's Future Michele James addressed Mayor and Council regarding the city's Workforce Development Plan to include specific strategies to assist with increasing the local early childhood support and provided additional suggestions for the Regional Plan 2045.

Assistant Director of the Coconino County Workforce Development Board Regina Salas addressed Council regarding Workforce training funded by federal money. Ms. Salas also spoke about the evolving goals and engagement of employers,

Mr. McIntire stated that the full report would be sent to Council and then presented to Council on July 2, 2024. Mayor Daggett asked for the report to be shared publicly.

9. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

Councilmember House spoke about a prescribed fire tour on Observatory Mesa with Mayor Daggett and Councilmember Sweet. She also shared that she was a part of the multi-cultural sculpture exhibit opening ceremony at Liz Archuleta Park. She stated that there was a Letter to the Editor with concerns about the Aquaplex with open swim hours. She asked staff to explain how much attention they pay to these concerns.

PROSE Director Rebecca Sayers stated that staff answered a very similar email. She addressed the lifeguard shortage and added that there was a nationwide shortage. She addressed the individual email and how there was a conflagration of events with four lifeguards calling out. She also spoke about the job postings for lifeguards.

Mayor Daggett asked how a person could get certified as a lifeguard. Ms. Sayers stated that PROSE would pay for certification and training for people to get certified and then they would hire them.

Councilmember Sweet stated she attended the CDL ribbon cutting at NAU, the Good Scout Board Luncheon honoring Kimberly Ott, and the Coconino Scroll ribbon cutting and tour.

Councilmember McCarthy stated that he attended the dedication of the new mural in the alley on San Fransico Street at the Murdoch Center.

Councilmember Harris stated she also attended the mural dedication and the Good Scout Board Luncheon honoring Kimberly Ott. She asked what staff can do to let our community know that when things like the lifeguard shortage happens. Mr. Clifton stated the City works to be transparent with the community and recently changed the pay structures. He would work with Public Affairs for more educational material. Councilmember Harris invited everyone to Juneteenth celebration on June 15, 2024.

Mayor Daggett stated she was able to attend the event for the NASA Artemis crew who are training in Flagstaff. She was also able to attend the Memorial Day Event at Citizen's Cemetery. She stated her appreciation for staff on the partnerships for the recent prescribed burns. She spoke of the upcoming DC trip for the National League of Cities. She also spoke of the Flagstaff Green School Yards Initiative.

10. Open Call to the Public

Steven Young addressed Council regarding his arrests, evictions, and unjust compensation.

11. Adjournment

The Work Session of the Flagstaff City Council held May 28, 2024, adjourned at 7:02 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL REGULAR MEETING
TUESDAY, MARCH 4, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. CALL TO ORDER

Mayor Daggett called the meeting of the Flagstaff City Council held March 4, 2025, to order at 3:01 p.m.

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.

Present: Mayor Becky Daggett
Vice Mayor Miranda Sweet
Councilmember Austin Aslan
Councilmember Anthony Garcia
Councilmember Khara House
Councilmember Lori Matthews
Councilmember David Spence

Staff Present: City Manager Greg Clifton; City Attorney Sterling Solomon

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

The Council and audience recited the pledge of allegiance, Councilmember Garcia read the Mission Statement of the City of Flagstaff, and Councilmember Aslan read the Land Acknowledgement.

MISSION STATEMENT

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

LAND ACKNOWLEDGEMENT

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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.

Colleen Maring, Chief People Officer at Northern Arizona Healthcare, addressed Council and shared information about a new harm reduction initiative in partnership with the Coconino County Health Department. A vending machine outside the emergency department stocked with free Narcan and fentanyl test kits. Since its launch in September, the machine had distributed over 650 Narcan doses and 400 test kits, with community members using them for safety.

Azaryah addressed Council with a message of warning from God that destruction would be brought to the land.

Mayor Daggett reordered the agenda and took Item 6 before Item 5.

5. PROCLAMATIONS AND RECOGNITIONS

A. Recognition: Girl Scout Awards

Mayor Daggett presented awards to the following individuals:

- Alyssa Harelson
- Amelia Bauman
- Cecelia Metz
- Elizabeth Broadbent
- Ella Pugh
- Emilynn Morgan-Wight
- Lila Dechter
- Quinn Buzzard
- Raina Boehme
- Samantha Brink
- Sonora Simmons

B. Proclamation: Girl Scout Week

Mayor Daggett read and presented the proclamation.

C. Proclamation: Women's History Month

Vice Mayor Sweet read and presented the proclamation.

6. COUNCIL LIAISON REPORTS

Councilmember Aslan reported on the Sustainability commission meeting that included a robust discussion on code amendments. He also reported on the Tourism commission meeting which included updates on tourism in the Flagstaff region and a presentation from the Downtown Business Alliance on the vision for the downtown and budgetary roadmap to achieve a more vibrant and prosperous downtown.

Councilmember Garcia highlighted the Library Board meeting that included updates on the

establishment of a volleyball court near the Forest Lake branch, the operational status of the Bookmobile, and the upcoming National Library Week.

Councilmember Matthews provided an update on the Mountain Line Board meeting, mentioning the pursuit of affordable housing on a six-acre parcel and planned service improvements for August 2025, including route modifications and public feedback opportunities.

Councilmember Spence shared that the Transportation commission's pedestrian and bicycle advisory committees were active, and that a $3 million project to repave 50 miles of FUTS trails with asphalt was planned for the summer.

Councilmember House discussed the Housing Commission's approval of the rental incentive bond program utilization and conversations on the LASS/CAP code concepts and missing middle housing types.

Vice Mayor Sweet noted that the MetroPlan meeting would be held at City Hall later that week.

Mayor Daggett reported that the Flagstaff Housing Authority met and voted to support the city taking on additional vouchers; the matter would come to Council for action soon.

7. APPOINTMENTS

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

A. **Consideration of Appointments:** Open Space Commission.

Moved by Councilmember David Spence, **seconded by** Councilmember Anthony Garcia to appoint William Kluwin to a term expiring in April 2028.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Anthony Garcia, **seconded by** Councilmember David Spence to appoint Lina Wallen to a term expiring in April 2027.

Vote: 7 - 0 - Unanimously

8. 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.

Moved by Councilmember Anthony Garcia, **seconded by** Councilmember David Spence to approve the Consent Agenda as presented.

Vote: 7 - 0 - Unanimously

A. **Consideration and Approval of Contract:** Approval of Contract with Flowbird for Proprietary Parking Meter Payment Processing Software at $69,718 annually.

Approve the contract with Flowbird for the use of its proprietary software for parking meter payment processing, parking statistic data reporting, and financial reporting.

B. **Consideration and Approval of Settlement:** Settlement of the condemnation proceeding, *City of Flagstaff v. Hanson et al.* (S0300CV202200547) related to acquisition of property for the Lone Tree Overpass Project.

1. Approve settlement of the condemnation proceeding pursuant to the terms discussed in Executive Session; and
2. Authorize the City Manager, City Attorney, or its outside legal counsel to execute all documents and take other actions as are necessary to finalize the settlement.

C. **Consideration and Approval of Contract:** Cooperative Purchase Contract with J Banicki Construction for Stormwater Asset Repairs in the amount of $193,494.28.

1. Approve the Cooperative Purchase Contract with J Banicki Construction for Stormwater Asset Repairs for an amount of $193,494.28; and
2. Request that the City Manager to execute the necessary documents.

D. **Consideration and Approval of Contract:** Change Order 2 with Burgess & Niple, Inc. in the amount of $234,660.00 and add 150 calendar days to the Butler Fourth Improvement Professional Engineering Services Contract.

1. Approve Change Order 2 for Butler Fourth Improvement Project with Burgess & Niple, Inc. in the amount of $234,660.00;
2. Add 150 calendar days to the Professional Engineering Services Contract; and
3. Authorize the City Manager to execute the necessary documents.

A written comment in support of the contract was submitted by Matthew Morgan.

9. ROUTINE ITEMS

A. **Consideration and Adoption of Resolution No. 2025-09 and Ordinance No. 2025-03:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 13-09-002-0012, Private Pressure Wastewater Mains and Services.

Moved by Vice Mayor Miranda Sweet, **seconded by** Councilmember Lori Matthews to adopt Resolution No. 2025-09.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Anthony Garcia, **seconded by** Councilmember David Spence to read Ordinance No. 2025-03 by title only for the final time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 13-09-002-0012, PRIVATE PRESSURE WASTEWATER MAINS AND SERVICES, BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED "2025 - - PRESSURE WASTEWATER CODE AMENDMENT"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

Moved by Councilmember Lori Matthews, **seconded by** Councilmember David Spence to adopt Ordinance No. 2025-03.

Vote: 7 - 0 - Unanimously

B. **Consideration and Approval of Contract:** Fourth Amendment to the Design-Build Contract with Hunter Contracting Co. in the amount of $688,880 adding GMP 5 for Construction and Repair Services for the Inner Basin Waterline Restoration Project.

Capital Improvements Project Manager David Pedersen provided a PowerPoint presentation that covered the following:

INNER BASIN WATERLINE RESTORATION PROJECT
PROJECT STAKEHOLDERS
EXCITING NEWS
GUARANTEED MAXIMUM PRICE
SCOPE OF WORK
CONTRACT AND PROJECT TIMELINE
CONTRACT AND PROJECT COSTS

Council shared appreciation for the work of everyone involved in such an essential project.

Moved by Vice Mayor Miranda Sweet, **seconded by** Councilmember Lori Matthews to approve the Fourth Amendment to the Design-Build Contract with Hunter Contracting Co. in the amount of $688,800 adding GMP 5 for Construction and Repair Services for the Inner Basin Waterline Restoration Project with a contract duration of 75-calendar days and authorize the City Manager to execute the necessary documents.

Vote: 7 - 0 - Unanimously

C. **Consideration and Approval and Ratification of Contract:** Approve the Concessionaire Services License Agreement with Hi-Line Snack and Vending, Inc. to add two micro-markets and a coffee kiosk at the Flagstaff Pulliam Airport.

Airport Director Brian Gall provided a PowerPoint presentation that covered the following:

AIRPORT CONCESSIONAIRE SERVICES LICENSE AGREEMENT
AIRPORT MICRO-MARKET
AIRPORT FOOD AND BEVERAGE CONCESSIONAIRE HISTORY
LICENSE AGREEMENT SCOPE
PRE-SECURITY MICRO-MARKET AND COFFEE KIOSK
POST-SECURITY MICRO-MARKET
CUSTOMER EXPERIENCE AND INTERFACE
STAFF RECOMMENDED ACTION

Moved by Councilmember Lori Matthews, **seconded by** Councilmember Anthony Garcia to approve the Concessionaire Services License Agreement with Hi-Line Snack and Vending, Inc. to add two micro-markets and a coffee-kiosk at the Flagstaff Pulliam Airport and authorize the City Manager to execute the necessary documents.

Vote: 7 - 0 - Unanimously

10. PUBLIC HEARING ITEMS

A. **Consideration and Adoption of Resolution No. 2025-05:** A resolution of the Flagstaff City Council, authorizing the execution of the Second Amendment to the Mill Town Development Agreement between Vintage Partners, LLC and the City of Flagstaff related to the development of approximately 13 acres of real property generally located at 1801 S Milton Road.

Mayor Daggett resumed the public hearing from February 4, 2025.

Senior Planner Wesley Welch and Deputy City Attorney Kevin Fincel provided a PowerPoint presentation that covered the following:

MILL TOWN DEVELOPMENT AGREEMENT 2ND AMENDMENT

DEVELOPMENT AGREEMENT
ENTITLEMENTS
DEVELOPMENT STANDARDS
1ST AMENDMENT
2ND AMENDMENT

Councilmember Matthews stated that the currently approved Development Agreement (DA) was tied to a specific site plan that allowed a five-story project with approximately 186 beds. She asked if the current proposal did not move forward, if the developers could still proceed with the original plan, provided they secured building permits or submitted civil plans by the end of the year.

Mr. Fincel responded yes. They had an approved site plan, if Council did not approve the proposed amendment, they could move forward under that plan.

HIGH OCCUPANCY HOUSING (HOH)
MILLTOWN
CODE COMPARISON -- HOH
CODE COMPARISON -- PARKING
COUNCIL OPTIONS

Lindsay Schube with Gammage and Burnham, on behalf of Vintage Partners, provided a PowerPoint presentation that covered the following:

MILL TOWN MIXED USE
MILL TOWN: ARIZONA'S INAUGURAL P3 PROJECT
TIMELINE
REALIZED BENEFITS
SO WHY ARE WE HERE?

Councilmember Garcia asked about the public/private partnership. Ms. Schube explained that there were lengthy negotiations that included road improvements, fiber optics, sewer improvements and much more. Mr. Fincel added that the partnership was born from the city's desire to connect Beulah to University, but the ADOT facility was in the way. ADOT did not have a place to go so efforts began to find a partner who could come in and help ADOT relocate.

Councilmember Matthews indicated that it all started from a citizen bond that included the realignment of University. Community Development Director Dan Folke stated that the Beulah extension and realignment with University was the first part of the 20-year Transportation Tax from 2000 and it was the only remaining project that had not been constructed.

Ms. Schube reiterated that they were requesting an opportunity to bring a right sized project to a vacant parcel. The amended site plan would come back to Council for approval like any other development.

Walter Crutchfield with Vintage Partners addressed Council and reflected on the complexity and effort behind a DA that took over four years and involved 18 attorneys from the State of Arizona, the City of Flagstaff, and other parties. He emphasized trust, integrity, and keeping one's word. He defended his track record and personal character and highlighted his history of delivering affordable housing and other significant projects. He expressed frustration over opposition to their current proposal to downsize a large project near NAU. He urged Council to prioritize Flagstaff's future and student housing needs.

Councilmember Matthews asked how much Vintage Partners had delivered in terms of affordable housing. Ms. Schube stated that they had partnered with Capstone Homes, Rohrs, Habitat for Humanity, Lived Communities, and others and have delivered more units than any others. There were 221 units at 60% AMI or less in partnership with Rohrs, 206 single family rental units with a 20% affordable component, they had 220 planned market rate multi-family rentals with Lived Communities, 40 starter homes with Habitat for Humanity, and 700 detached single-family homes with more to come in the additional phase of Timber Sky. She also noted a new project of tall and

skinny townhomes that would also be part of Timber Sky.

Councilmember Matthews asked what the next steps would be if the amendment was not approved. Ms. Schube indicated they would either move forward and build what had already been approved or bring forward a Prop 207 claim and then apply with the revised development.

Councilmember Aslan clarified that he had no issue with building height or density but was concerned that the justification for the new project, framed as a "downsizing," may be misleading. He requested more detail about the proposed "right-sized" plan, how that differed from the already approved plan, and how the original entitlements would prevent a smaller, less dense development from proceeding. Ms. Schube stated that the current entitlements and architecture for the project were outdated, unsustainable, and inefficient, with a large footprint, wasted space, and too much parking. The new design had a smaller, more sustainable floor plan and better materials, which aligned it more with current planning priorities. Because the new design was significantly different, it could not be approved through the minor modification process and instead must go through a formal amendment involving public review. The new proposal would go through the full public process, including Planning and Zoning and City Council review.

Vice Mayor Sweet asked about commercial space; there were many large buildings already in existence that had empty commercial space on the ground floor. She asked how that could be avoided. Mr. Crutchfield indicated that the retail would be in front of the development, and he was not concerned that there would not be interest for the space. There had been significant interest from retail partners, and they were confident the retail could be filled.

Mayor Daggett asked Mr. Fincel to briefly explain what a Prop 207 was. Mr. Fincel explained that Proposition 207 allows private property owners to claim compensation if a local government passes a land use law that allegedly reduces the value of their property. For example, if a property was previously zoned for a five-story building but a new ordinance only allows three stories, the owner could claim a loss in value. In response, the city has two main options: it could either pay the property owner for the loss or grant a waiver. The waiver exempts the property from the new restriction, meaning the owner can still build under the old rules, and that exemption remained in effect permanently.

Mayor Daggett asked where amendments to DAs had happened before with other projects. Mr. Fincel stated that Canyon Del Rio was a recent one where an amendment was made that allowed the John Wesley Powell extension to go through their property. He noted that Timber Sky had been amended multiple times, most recently to change the affordability provisions. He noted that amendments were common because things change, and situations arise over time.

Mayor Daggett asked about amendments like what was being requested. Mr. Fincel stated that he was not aware of one recently but noted that public/private partnerships were unique. Mr. Crutchfield added that with multiple development partners, including the state and city, there were many components and requirements that changed.

Councilmember Matthews asked what the return to Vintage Partners had been since the inception of the development. Ms. Schube explained that there had been no return up to that point. However, Vintage had worked diligently with the city on the Timber Sky project including affordable housing with Rohrs and Habitat for Humanity that demonstrated their commitment to delivering quality projects that benefited the community.

Councilmember Matthews stated that she was pleased with the prospect of less parking. She asked if the development would be student housing. Ms. Schube offered that there was not a land use category called student housing. The current development was a mixture of unit types ranging from studio to five-bedroom units with shared space. The new proposal would be similar but with a stronger emphasis on studios, one- and two bedrooms. It would be an opportunity for travelling nurses, students, new engineers, etc. that needed to have a temporary space while they search for permanent housing. It was a multi-family development, but given its proximity to NAU, students would be a fair part of that resident makeup.

Vice Mayor Sweet stated that the project would address multiple needs for housing. She asked for a reiteration of what affordable housing Vintage Partners had brought to Flagstaff. Ms. Schube and Mr. Crutchfield offered that the original agreement included a small number of units with a ten-year affordability limit, tied to studio apartment values, but the plan was not well thought out and was negotiated on the fly. Since then, the understanding of what constitutes affordable housing had evolved, and recent projects like Lake Mary and Sky Cottages had included more intentional affordable components. The development team now believed the best path forward was to partner again with Habitat for Humanity to build 40 new affordable homes at Timber Sky, building on an earlier phase that received overwhelming interest from applicants. Although there had been concerns from developers about the challenges of working in Flagstaff, the team remained committed to delivering a more effective and community-focused solution. They planned to bring a revised proposal forward through the rezoning process and hoped to gain support from the City Council and Planning and Zoning Commission.

Councilmember Garcia stated that there was a missing middle when it came to housing and asked how that missing middle could be addressed. Mr. Crutchfield offered that they were also concerned about the missing middle. He noted that there was no single type of housing that could meet the full range of needs. He indicated that shared multi-bedroom units had proven useful for students and young professionals. However, even discounted shared rentals often cost more than owning a Habitat home. He emphasized that equity, through ownership, was a better long-term solution. He suggested that the city should re-evaluate available land for a significant expansion of Habitat for Humanity housing. Losing young people and families due to housing threatened the community's vitality, there must be opportunities for everyone, not just older or established residents.

Mr. Clifton offered that although the project had been ongoing for several years, it had not been stagnant and significant offsite improvements had been made, including infrastructure, public amenities, and upcoming developments. He acknowledged the complexity of the public-private partnership and underscored that the delays and challenges were typical of such long-term projects.

Mr. Clifton also indicated that the main issue was timing, as the seven-year DA was nearing its end in December. There was still significant work to complete on both residential and commercial components, and the decision at hand involved granting an extension to allow that work to continue. The process being proposed was supported by city staff and was consistent with the original development code, and not in violation of current policies, including the HOH policy. He noted that if the project was not allowed to proceed, Prop 207 claims were likely to follow, which would bypass current policies anyway and delay progress further.

Finally, Mr. Clifton offered that there was an expectation that the revised site plan would address community concerns by reducing scale and density, though specific visuals were not yet available. He pointed out the complexity of Flagstaff's zoning code which added cost and uncertainty for developers. Simplifying those regulations would help reduce housing costs and support more efficient development, ultimately benefiting the entire community amid a housing crisis.

Mr. Fincel pointed out that there was another timing issue as it related to a true up payment referenced in the current agreement. He recommended that Council include a five-year extension on that payment to match the extension on the agreement.

The following individuals addressed Council in support of the amendment to the Development Agreement:

- Cecily Maniaci
- Roman Goebel
- Cameron Bunger
- Stephen Irwin
- Eric Wolverton
- Mateo Seamar
- Coral Evans

The following comments were received:

- There are so many housing needs in Flagstaff.
- We want the city to grow with housing, businesses, and people.
- We are losing our workforce and youth because of their inability to secure affordable housing.
- There is a need for growth.
- Support the amendment to support students who want to stay in Flagstaff after graduation.
- The project is all about partnerships and ADOT and the city has benefited tremendously, it is now time for Vintage to benefit.
- There is a good partner who will provide a smaller project, and we owe it to Vintage to be a good partner.
- This is only an extension to figure out how to deliver the best possible development.
- Building more housing for students will get them out of neighborhoods and into smart locations near NAU, amenities, and public transportation.
- It makes sense to ask why when there is a request for an extension.
- Vintage has devoted their engineering team pro bono to Habitat, that shows their commitment.
- They have a willingness to look outside the box and focus on the broad needs of housing in Flagstaff.
- Voters approved a transportation tax decades ago and without Vintage the projects tied to that tax would not be advancing.
- Amending a DA is not unheard of.
- Flagstaff is missing middle housing and that needs to be heavily considered.
- This is an opportunity that would give people who are against large projects something smaller.

Written comments in support of the amendment to the Development Agreement were submitted by the following:

- Elliott Harrington
- Noah Garcia
- Lukas Stover
- Matthew Vanca
- Graidin Arnold
- Tyler McDonagh
- Ty Robinson
- Steven Butler
- Alexander Mooradian
- Ezekiel Valdivia
- Mateo Seaman
- Bennett Warner
- Kael Hopkins
- Patrick Duffy
- Andrew Sanchez-Carrithers
- Gavin Caldwell
- Sandra Lubarsky

The following individuals addressed Council in opposition to the amendment to the Development Agreement:

- Michelle James
- Jean Christy
- Barbara Bates
- Charlie Silver
- Mary Norton
- Kathy Flaccus
- Debra Block
- Marilyn Weissman

The following comments were received:

- The HOH code should be applied to this project.
- Citizens worked closely with the city to craft the HOH plan for reasonable limitations on high density developments.

- If the Council approves the amendment the applicant will build a project that does not meet the HOH standards.
- An amendment would send a message that the city codes are not important.
- There is not a compelling argument to approve the amendment.
- It does not make sense that the new codes would not be better than what they have now.
- Hold standards high and represent the public interest.
- Student housing units are empty throughout the year already.
- Focus on the people living here.
- Building more apartments does not support Flagstaff, more permanent housing opportunities are needed.
- Developers build without consideration of Flagstaff's historic feel.
- We must protect the jewel we are lucky to live in.
- More buildings will block the view of the San Francisco Peaks.
- We need well planned growth and that is not what is happening in Flagstaff.
- This will bring increased transportation and water concerns.
- Overscale apartment buildings should never have been built, and they should not be built now.
- Developers do not get to pick and choose which code they want to build under.
- New site plans must be reviewed under the current code.
- Deviating from the code is not appropriate, adhere to the process and current code.
- The development does not provide a pathway to permanent housing.
- I object to large city developers suggesting that their projects are appropriate for Flagstaff.
- The Council must mandate the HOH requirements.
- Dense housing should include everyone, not just students.
- This calls into question the benefit of a public/private partnership.

There being no further public comment, Mayor Daggett closed the public hearing.

Councilmember Spence stated that he had visited several large student housing developments which together amounted to around 1,200 dwelling units and 3,500 bedrooms. All these projects had emerged since the Milltown development was first proposed, illustrating how much had changed in recent years. Those developments were the catalyst for the creation of the HOH code. The core of the HOH policy included a requirement that at least 20% of units be studio or one-bedroom apartments and that no more than 30% of units be four- or five-bedroom layouts. The current proposal from Vintage Partners resisted that policy and he was not supportive of the amendment. It was not because of the developer's reputation or timeline, but because he believed in consistent governance. Granting an exemption would set a precedent, potentially opening the door for other developers to request similar exceptions.

Councilmember Aslan noted that none of the current Councilmembers were involved in the original DA or public/private partnership project, and that the complexity of the situation had made it difficult to maintain public trust. Regardless of the decision, the development would return to the Council and the community for further consideration. He was opposed to amending a site plan that would be nine years old when it sunsets. He pointed out that Vintage was unable to secure a builder for years and only found one willing to proceed if major changes were made to the plan. He acknowledged that Vintage had the legal rights to develop the land and had already made substantial investments that benefited the city, however he did not believe that the project should be evaluated under the current conditions and housing needs, which were shifting away from student-focused developments. He indicated that he would not vote to approve the amendment.

Councilmember Matthews explained that several Prop 207 claims had already been approved, which exempted those properties from the HOH code; that would apply in this case if the amendment was denied. If denied, the project would likely proceed without HOH restrictions through a 207 claim. Delaying the project would raise costs, which would ultimately be passed to residents. She felt that student housing near campus helped free up housing elsewhere and praised the potential for Habitat for Humanity to build more homes. She expressed support for the HOH code but acknowledged that changes to zoning laws inevitably affected projects already in motion. She noted her support for the amendment.

Councilmember House acknowledged the concerns raised about the development and emphasized

that she took those concerns seriously. While she noted that the developer could proceed with the existing, potentially less desirable, site plan, she believed that granting the amendment allowed for a more thoughtful approach that better aligned with Flagstaff's housing needs. She viewed the process as an important step toward fostering a more balanced and constructive community dialogue.

Councilmember Garcia clarified that voting "no" would not end the project, it would leave the larger, already-approved plan in place. He believed that the site was well-suited for higher density and expressed that approval would give the community an opportunity to collaborate with Vintage and help shape the development's future.

Vice Mayor Sweet thanked Vintage for taking the time to listen and answer questions. She felt that there was value in giving the project a chance to see what they brought forward with the amended site plan. She believed that Vintage intended on providing what the community needed.

Mayor Daggett stated that the DA did not exempt the developer from the current engineering standards. Last year, and currently under construction, there were a total of 921 units constructed and of those, 355 were affordable. She was proud of that and the work the Council, staff, and community partners had put into creating affordable housing. She stated that Prop 207 had been thrown around as a threat, but she saw it as a consequence. It was a very real law, and they had given waivers to several property owners that had shown just cause that HOH diminished the value of their property. The alternative was to go to court, which was very expensive, and the city would likely not be successful. She stated that when the amended site plan came back, she would like to see a healthy mix of rental types and suggested the percentages within the HOH code. She felt confident that the amended site plan would be better than the current plan.

Moved by Councilmember Lori Matthews, **seconded by** Vice Mayor Miranda Sweet to read Resolution No. 2025-05 by title only authorizing the execution of the Second Amendment to the Mill Town Development Agreement, with the addition of the amendment to the Duration section of the Development Agreement discussed by staff.

Vote: 5 - 2

NAY: Councilmember Austin Aslan
Councilmember David Spence

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT TO THE MILL TOWN DEVELOPMENT AGREEMENT BETWEEN VINTAGE PARTNERS, LLC, AND THE CITY OF FLAGSTAFF RELATED TO THE DEVELOPMENT OF APPROXIMATELY 13 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 1801 S MILTON ROAD AND ESTABLISHING AN EFFECTIVE DATE AS AMENDED

Moved by Councilmember Lori Matthews, **seconded by** Vice Mayor Miranda Sweet to adopt Resolution No. 2025-05.

Vote: 5 - 2

NAY: Councilmember Austin Aslan
Councilmember David Spence

11. REGULAR AGENDA

A. Consideration and Adoption of Resolution No. 2025-06: A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement with the Arizona Game and Fish Department for wildlife drinkers along the Inner Basin Pipeline.

Water Production Manager Brian Huntzinger and Colby Walton with Arizona Game and Fish provided a PowerPoint presentation that covered the following:

INNER BASIN WATERLINE WILDLIFE DRINKERS
INTERGOVERNMENTAL AGREEMENT WITH ARIZONA GAME AND FISH
INNER BASIN WILDLIFE DRINKERS

Moved by Councilmember Austin Aslan, **seconded by** Councilmember David Spence to read Resolution No. 2025-06 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA GAME AND FISH DEPARTMENT AND THE CITY OF FLAGSTAFF FOR WILDLIFE DRINKERS ALONG THE INNER BASIN PIPELINE

Moved by Councilmember Austin Aslan, **seconded by** Councilmember Anthony Garcia to adopt Resolution No. 2025-06.

Vote: 7 - 0 - Unanimously

A break was held from 6:49 p.m. through 7:02 p.m.

B. **Consideration and Adoption of Resolution No. 2025-07:** A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement (IGA) between the State of Arizona through the Arizona Department of Transportation and City of Flagstaff for the Arizona State Match Advantage for Rural Transportation (AZ SMART) Match Reimbursement for the Butler Avenue Complete Streets Conversion project.

Transportation Planner Christopher Phair provided a PowerPoint presentation that covered the following:

IGA FOR THE AZ SMART MATCH REIMBURSEMENT ON THE BUTLER AVENUE COMPLETE STREET CONVERSION PROJECT
AZ SMART MATCH IGA
ANTICIPATED PROJECT COSTS (AT TIME OF SS4A AWARD)
PROJECT COSTS WITH AZ SMART AWARD

Councilmember Spence asked how much private property was needed along the road. Mr. Phair explained that they were only at 15% concept plan for the project and there were no commitments on Right-of-Way needs at that time but that the two that were suggested were minimal.

Moved by Councilmember Lori Matthews, **seconded by** Vice Mayor Miranda Sweet to read Resolution No. 2025-07 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF FLAGSTAFF FOR THE ARIZONA STATE MATCH ADVANTAGE FOR RURAL TRANSPORTATION (AZ SMART) FUND AWARD

Moved by Councilmember Lori Matthews, **seconded by** Councilmember David Spence to adopt Resolution No. 2025-07.

Vote: 7 - 0 - Unanimously

C. **Consideration and Adoption of Resolution No. 2025-10 and Ordinance No. 2025-04:** An ordinance to revise the Stormwater Management Design Manual to comply with current standards, definitions, and engineering design by adopting the 2025 Stormwater Management Design Manual.

Water Services Stormwater Manager Ed Schenk introduced Rick Schuller with Woodson Engineering who provided a PowerPoint presentation that covered the following:

STORMWATER MANAGEMENT DESIGN MANUAL UPDATE
OBJECTIVES FOR TONIGHT
PROJECT SCOPING EXERCISE

NEW MANUAL BASIS
INTENT OF MANUAL
PEER REVIEW AND PUBLIC COMMENTS
REMAINS APPLICABLE
MANUAL REVISIONS
DISCUSSION

Councilmember Spence noted that Chapter 6 mentioned rainwater harvesting and asked if there was anything in the 2025 manual that would restrict or constrict a property owner from collecting rainwater. Mr. Schuller stated that rainwater harvesting was a requirement on new projects and exceptions would only be where the project would use a complete landscape pallet of drought tolerant species that would require less irrigation while using more passive techniques for capturing the water.

Mr. Clifton stated that Chapters 9 and 10 discuss burn watersheds and post wildfire flooding. He asked if that reconciled with policies that the county was following with respect to post wildfire flooding. Mr. Schuller responded yes and noted that a good share of the comments received about the chapters came from JE Fuller. The final analysis of no adverse impact with projects utilized criteria that was very similar to what the county was using. The two-dimensional flood modeling also used the same modeling of the county.

Councilmember Garcia expressed appreciation that the new manual was easy to understand. Mr. Schuller stated that the old manual was far more technical and contained a lot of graphs; the new manual was meant to get to the broader points.

Moved by Councilmember Lori Matthews, **seconded by** Vice Mayor Miranda Sweet to read Resolution No. 2025-10 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DESIGNATING THE "2025 STORMWATER MANAGEMENT DESIGN MANUAL" A PUBLIC RECORD

Moved by Councilmember Lori Matthews, **seconded by** Vice Mayor Miranda Sweet to read Ordinance No. 2025-04 by title only for the first time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 12, FLOODPLAINS, BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED "2025 STORMWATER MANAGEMENT DESIGN MANUAL"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

D. **Consideration and Adoption of Resolution No. 2025-08:** A resolution of the Flagstaff City Council recognizing the housing emergency declared by Resolution No. 2020-66 is exacerbated by the proliferation of short-term rentals limiting housing stock available to Flagstaff residents; and urging the state legislature of the State of Arizona to address the impacts of short-term rentals on the supply of housing for Arizona residents.

Public Affairs Director Sarah Langley addressed Council and presented a resolution recognizing that the city's housing emergency was being worsened by the rise of short-term rentals (STRs). The resolution urged the State of Arizona to return regulatory control over STRs to local governments. She explained that since a 2016 state law limited cities' ability to regulate STRs, communities had faced growing challenges. Although some minor regulatory tools had been granted, cities still could not control the number of STRs. The resolution, modeled after one passed by Sedona, served as a formal call for legislative change and a lobbying tool to show state lawmakers that local governments needed more authority to manage the impact of STRs in ways that suited their unique communities.

Councilmember House noted that the Housing Commission had a thorough discussion on the

resolution, with some members expressing concern about its implications. However, they clarified that the resolution was simply a way to support potential legislative action and advocate for local control over STRs. It was not intended to bypass existing policies, but rather to help ensure that the city's housing supply was focused on meeting residents' needs, not fueling the STR market. Councilmember Garcia added that the commission was split on each side of the issue and all were worth considering.

Mary Norton addressed Council in support of the resolution for local control of short-term rentals, sharing her HOA's struggle to regulate STRs due to restrictive state laws and legal barriers. She urged the city to advocate for change and encourage new developments to limit non-owner-occupied STRs, noting STRs also benefit from lower property tax rates than hotels.

Moved by Councilmember Khara House, **seconded by** Councilmember Anthony Garcia to read Resolution No. 2025-08 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, RECOGNIZING THE HOUSING EMERGENCY DECLARED BY RESOLUTION NO. 2020-66 IS EXACERBATED BY THE PROLIFERATION OF SHORT-TERM RENTALS LIMITING HOUSING STOCK AVAILABLE TO FLAGSTAFF RESIDENTS; AND URGING THE STATE LEGISLATURE OF THE STATE OF ARIZONA TO ADDRESS THE IMPACTS OF SHORT-TERM RENTALS ON THE SUPPLY OF HOUSING FOR ARIZONA RESIDENTS

Moved by Councilmember Khara House, **seconded by** Vice Mayor Miranda Sweet to adopt Resolution No. 2025-08.

Vote: 7 - 0 - Unanimously

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

Vice Mayor Sweet requested a $1,000 allocation to feed volunteers during the Habitat for Humanity's Blitz Home Build Volunteer Event. Council expressed their support for the request.

Moved by Vice Mayor Miranda Sweet, **seconded by** Councilmember Austin Aslan to authorize the use of the Council Initiative Fund to sponsor the Habitat for Humanity Blitz Home Build Volunteer Event in the amount of $1,000.

Vote: 7 - 0 - Unanimously

12. FUTURE AGENDA ITEM REQUESTS

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

A. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Spence to place on a future agenda a discussion regarding immigration deportation issues in Flagstaff in light of the current federal deportation initiative

Councilmember Spence recited the Pledge of Allegiance. He stated that times were turbulent around both legal and illegal immigration. An aggressive federal deportation campaign targeted individuals without legal status. He referenced a specific state bill, Arizona Senate Bill 1164 (nicknamed the "AZ ICE Act"), and noted that, if passed, it would prevent Arizona cities from limiting cooperation with federal immigration authorities. He requested a discussion on how the federal and state immigration policies may impact the city and its residents. One concern was the potential deputization of local police by federal agencies like ICE, which allowed them to enforce immigration actions in private and sensitive spaces such as homes, places of worship, and healthcare facilities.

The following individuals addressed Council in support of advancing the matter to a future agenda for discussion:

- Thomas Huttner
- Joan Arrow
- Eva Putzova
- Amy Martin
- Joe Bader
- Gwen Waring
- Sandra Lubarsky
- Charlie Silver
- Debra Block
- Jill Stephenson
- Kit Alvarez

The following comments were received:

- Please support a good-faith conversation on how to protect neighbors and prevent persecution.
- The request is only for discussion, not for policy changes.
- The issue is fundamentally about people and community well-being.
- The Council should consider how to move forward as a united community.
- There is fear and anxiety in the community due to national rhetoric.
- Immigrant workers provide vital contributions to daily life and the economy.
- The city should reflect national values like unity and justice through open dialogue.
- 1,500 Flagstaff residents signed a petition in support of an Immigrant Safety Ordinance.
- The City Council has avoided involvement in federal issues in the past.
- The ordinance should state that no city resources would be used for federal immigration enforcement, restrict data sharing by the city to protect residents' privacy, and train staff on compliance with the ordinance with mandatory compliance audits
- City residents cannot wait for the discussion to happen.
- Many cannot be here because they fear for their safety by sharing their identity.
- All people deserve dignity.
- So many people were brought over when they were very young and know no place other than Flagstaff.
- Students are disappearing, families are leaving our community out of fear, and going to worse conditions in Mexico.
- People deserve to stay here, and to demonize them is unconscionable.
- Many came here for an opportunity of a better future and for no other reason than to work and provide for their families.
- Young people are unable to accept offers to attend university.
- ICE is operating without guardrails.
- Many people are being detained, yet have not been charged or convicted.
- We may hold different opinions on this issue, but all of us are being bullied by an administration that is threatening to withhold funding.
- In light of current deportation practices, we need to talk together about human dignity and rights.
- This issue is severely affecting our friends and neighbors.
- Many immigrants are doing the jobs that most Americans do not want to dirty their hands with.
- The community has a right to discuss the issue.
- The end does not justify the means.
- You rely on community and expect that in return.

The following individuals addressed Council in opposition to advancing the matter to a future agenda for discussion:

- BJ Dempsey
- Phil Goldblatt
- Theresa Talley

The following comments were received:

- Immigration was not an issue for cities like Flagstaff to address.
- Legal immigrants are not at risk in Flagstaff.
- Coconino County Sheriff and others will not enforce Prop 314 until Texas's similar law (SB4) is

settled, which is currently held up in the 5th U.S. Circuit Court.
- Prop 314 itself states it cannot be enforced until SB4 is legally resolved.
- The proposal that was suggested would make Flagstaff a sanctuary city.
- A sanctuary city could attract undocumented immigrants, including dangerous individuals.
- There could be implications on federal funding and grants.
- The current federal administration is enforcing immigration laws more strictly.
- Local governments must uphold federal law.
- Do not spend time or resources on a moot issue.
- Concerned about discussions aimed at working around federal immigration laws.
- These laws are voter-approved and passed by state and federal authorities.
- The Department of Justice may cut federal funding to cities violating immigration laws.
- There is no intent to deport legal immigrants.
- Focus on the well-being of current residents.
- This is a divisive issue with opposing opinions that will never see eye-to-eye and having a public discussion will turn ugly.
- It is not legal, and we need to put it to rest.

The following individuals submitted written comments in opposition to advancing the matter to a future agenda for discussion:

- Joan Harris
- Robert Breunig

Tyson Fousel and Kim Curtis submitted a written comment in support of advancing the FAIR item to a future discussion.

Mr. Solomon explained that under the Rules of Procedure the first step in the FAIR process was to determine if there were three members of Council who were supportive of the matter advancing to a future agenda for discussion. Discussion on the matter would not happen during this meeting and would need to wait until an official agenda item had been scheduled.

There was not requisite support to advance the item to a future agenda for discussion.

Mayor Daggett invited the public to contact them after the meeting to discuss their various positions on the matter.

13. OPEN CALL TO THE PUBLIC

None

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

Councilmember Matthews shared that the topic of immigration was emotionally charged and deeply personal for many, but it lied outside the legal authority of the City Council. She supported migrant workers and shared personal ties to a farming community where their children grew up alongside them. Despite her sympathy and concern for vulnerable individuals, Councilmembers took an oath to uphold the Constitution and existing laws, regardless of personal feelings. She expressed concern that holding a public discussion would raise expectations, leading to hours of emotional testimony and ultimately end in disappointment, because the Council was not able to take legal action on the matter.

Councilmember Aslan expressed personal support for the immigrant community, noting his time living in a rural Spanish-speaking community, and his work organizing a Catholic immigration support network in Sacramento. He shared the same concern for the current situation and its impact on vulnerable Flagstaff residents, but believed the proposed, non-binding resolution would be ineffective and potentially provocative. It was important to be strategic rather than symbolic, and that was his basis for not supporting the FAIR request.

Vice Mayor Sweet shared her belief that the conversation could and should happen, but within and among the community rather than at the dais.

Councilmember House thanked Councilmember Spence for initiating the discussion and acknowledged the widespread concern in the community over the treatment of migrants, especially amid current state and federal deportation actions. She empathized with the fear and uncertainty many residents were feeling but the need was for a thoughtful, non-reactive, response. She cautioned that public discussions could inadvertently oppose legislation or place vulnerable individuals at greater risk. There was effective work already being done by advocacy and community organizations directly engaged with impacted individuals. She was committed to continuing to support those channels as an approach that better served community safety and well-being more than a formal Council discussion.

Mayor Daggett recognized that people were scared. There were conversations happening and many on Council were involved in those conversations. She expressed concern that a discussion would illicit a lot of divisive public comment that would not lead to the outcome that people would like to see. She believed that there were more effective ways to address the issue and those were underway.

15. ADJOURNMENT

The Regular Meeting of the Flagstaff City Council held March 4, 2025, adjourned at 8:39 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATION

I, STACY SALTZBURG, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on March 4, 2025. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 6th day of May, 2025

_____
CITY CLERK

JOINT FLAGSTAFF CITY COUNCIL / COCONINO COUNTY WORK SESSION
TUESDAY, APRIL 14, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

1. Call to Order

Vice Mayor Sweet called the meeting of the Flagstaff City Council held April 14, 2025, to order at 3:03 p.m.

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 work session, 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.

PRESENT:	ABSENT:
CHAIRWOMAN BEGAY	
VICE-CHAIRWOMAN HORSTMAN	
SUPERVISOR FOWLER	
SUPERVISOR ONTIVEROS (Left the meeting at 5:00 p.m.)	
SUPERVISOR VASQUEZ	
MAYOR DAGGETT	
VICE MAYOR SWEET	
COUNCILMEMBER ASLAN	
COUNCILMEMBER GARCIA	
COUNCILMEMBER HOUSE	
COUNCILMEMBER MATTHEWS	
COUNCILMEMBER SPENCE	

Others present: City Manager Greg Clifton; Deputy City Attorney Kevin Fincel, County Manager Andy Bertelsen, County Attorney Bill Ring.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Aslan read the Mission Statement of the City of Flagstaff, and Councilmember House read the 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.

None.

5. Upper Rio and Forest Restoration Projects Update

Wildland Fire Captain Neil Chapman and Forest Restoration Director Jay Smith provided a PowerPoint presentation that covered the following:

FOREST RESTORATION/ UPPER RIO DE FLAG UPDATE
FOREST RESTORATION PROJECT FUNDING
UPPER RIO DE FLAG FOREST RESTORATION PROJECT

Vice-Chairwoman Horstman sought clarification from Mr. Smith about the removal of certain areas, specifically those designated for the spotted owl, from discretionary review. She asked if the intent behind this removal is to help streamline the process and move forward with obtaining necessary signatures. Mr. Smith confirmed that this was the case.

Vice-Chairwoman Horstman then asked whether the pending signature was specifically from the Forest Service or from other entities. Mr. Smith confirmed that it was the Forest Service. He explained that for the Hawk Little Wing project, the paperwork is nearly complete, and they are currently awaiting a signature from Forest Service Region Three.

Vice-Chairwoman Horstman asked about potential delays and how long they could wait for these signatures before it would begin to impact the timeline for forest restoration work planned for the summer. Mr. Smith responded that once the contract is ready, the RFP (Request for Proposal) is expected to be released later in April, according to The Nature Conservancy's timeline.

Supervisor Fowler proposed that, if needed, a joint letter of support could be written by the City Council and the Board of Supervisors to help move the process along. Mr. Smith said that while that might be helpful in the future, they are not at that stage yet.

Councilmember House raised a concern about whether state or private lands complicate the projects. Mr. Smith responded that while such lands do not present major complications, they do require extra communication and education efforts to ensure that private landowners understand the forest restoration initiatives.

UPPER RIO DE FLAG PROJECTS
WILDFIRE RISK REDUCTION UPDATE
THANK YOU

Councilmember Aslan asked if seasonal changes affect their assessments, and Mr. Chapman explained that even when trees have no leaves, they can still estimate conditions based on branch placement. Councilmember Aslan also asked about the technology being used, and Mr. Chapman clarified that they are not using Google Earth or drones like other cities. Instead, they rely on a tool called Madronus and prioritize on-site visits with owners or renters to identify actionable recommendations.

Vice Mayor Sweet mentioned she had participated in an assessment and found it highly valuable. Supervisor Fowler raised concerns about homeowners' insurance, asking if this work helps improve it and how the mapping is being used. Mr. Chapman responded that insurance companies are currently using zip codes to assess risk, which is problematic. The goal is to build a data set showing how neighborhoods transition from high-risk ("red") to safer ("green") zones, potentially influencing insurers' models and helping them better reflect mitigation efforts.

Supervisor Ontiveros asked whether insurance companies are actually responding to these changes. Mr. Chapman said there are no guarantees since the insurance landscape changes rapidly. However, the program is being recognized as a strong framework for homeowner mitigation, and efforts are underway to integrate this into city codes. While clear responses from insurance companies have not been seen yet, the groundwork is being laid for long-term influence.

Mr. Smith added that part of an existing grant is aimed at supporting smaller districts, which often lack capacity for outreach. Educating the community on guidelines is essential for shifting risk levels on the map. Councilmember Garcia brought up concerns about the fire buffer on the west side of the city, asking if it was sufficient. Mr. Smith explained that the area in question is about six miles from the highway and ten from the mountain, and current planning is designed to provide a protective buffer that accounts for extreme weather events.

Mr. Chapman emphasized that while disaster is always a possibility, the aim is to prepare two million acres for emergencies and make them eligible for preparedness funding. Supervisor Vasquez expressed concern about delays, especially regarding Bill Williams Mountain. Mr. Smith explained that once key signatures are obtained, they can begin contacting helicopter contractors to start the steep-slope project from the base of the mountain.

Chairwoman Begay closed by echoing concerns about insurance and thanking the staff for their work on these initiatives.

6. City of Flagstaff Capital Projects Update

Deputy City Manager Joanne Keene, City Engineer Paul Mood, Senior Project Manager Chrstine Cameron and Capital Improvements Engineer Trevor Henry provided a PowerPoint presentation that covered the following:

CITY OF FLAGSTAFF IMPROVEMENT PROJECTS UPDATE
FUTS ASPHALT REPARI
JOHN WESLEY POWELL BLVD EXTENSION

Supervisor Ontiveros asked for clarification about how far the plan extends on the presented map. Mr. Mood confirmed that the corridor plan covers the entire area shown.

Planning Director Michelle McNulty added that while the plan directly affects only city property, county residents are also being included in the process to ensure they are informed and educated.

Supervisor Vasquez inquired about the map's color coding, asking if the orange areas represented the county island. Mr. Mood clarified that the green areas indicate county land.

BEULAH AND UNIVERSITY REALIGNMENT
BUTLER AND FOURTH STREET IMPROVEMENTS

Councilmember Garcia raised concerns about potential changes to the roundabout location, asking at what point the city should proceed with the current plan if they do not hear back from ADOT, and what

alterations would be necessary to make changes while still aligning with previous planning. Mr. Henry responded that a traffic analysis has already been completed with potential roundabout relocation in mind. The report has been submitted to the state, and they are awaiting feedback. If ADOT does not respond soon, the city can still proceed with the current plan. If the roundabout needs to be moved, the scope already includes flexibility for adjustments. Mr. Henry emphasized that the logistics are being finalized and future changes are being considered, including coordination with a private developer that needs to be accommodated.

Vice-Chairwoman Horstman mentioned a recent Daily Sun article about potential federal grant revocations related to bike lanes and asked if ADOT has provided any follow-up. Mr. Mood said that Councilmembers and staff recently went to Washington, D.C. to advocate for maintaining those bike lane elements within the plan.

Councilmember Aslan pointed out that the underpass is not being dug below grade. Mr. Henry confirmed this, explaining that the structure will be built up about 12 feet to accommodate the slope and potential future land degradation. Councilmember Aslan also asked about a proposed temple on the same street and whether any planning or traffic considerations have been made, especially regarding concerns like dark sky preservation. Mr. Henry stated that while the city has seen media reports about the project, no official communication, concepts, or site plans have been submitted. If it proceeds, the developer will have to follow all city procedures and guidelines.

Supervisor Vasquez inquired about whether all roads in the area would be built the same, specifically asking about Harold Ranch Road. Mr. Mood clarified that Harold Ranch Road is not an official road. The plan is to make a northern connection, while the southern end will be left alone. He also noted that Little America intends to stop using that road altogether.

BUTLER AVE COMPLETE STREET
CEDAR LOCKET FOURTH ROUNDABOUT

Supervisor Vasquez raised concerns about pedestrian safety, particularly for children, at a busy intersection, noting how quickly traffic can back up and questioning how vehicles and pedestrians will navigate the area safely. Mr. Henry explained that the intersection had been analyzed during the initial traffic study, which confirmed that it could handle vehicle volume using a planned "Z crossing" for pedestrians. He added that there were discussions about involving a school crossing guard and that the city has partnered with local organizations to educate students on safe crossing. Additionally, pedestrian crossing lights will be installed to enhance safety.

Supervisor Vasquez also expressed concern about cars diverting through side streets in the Sunnyside neighborhood to avoid the intersection. Mr. Henry assured that the traffic control plan includes designated detour routes that do not direct drivers through neighborhood side streets. While he could not guarantee that all drivers would follow the plan, he emphasized the city's intention to minimize neighborhood impact.

Councilmember Aslan asked about an old-growth tree located on the Pine Forest Charter School property and whether it could be preserved. Mr. Henry responded that two trees on the property will be saved, but one tree located closer to the improvement zone will need to be removed. The school has been informed and is supportive of the plan, and arrangements have been made to process the removed tree and return some of the wood to the school.

LONE TREE OVERPASS AND CORRIDOR IMPROVEMENTS
DOWNTOWN MILE SAFETY AND CONNECTIVITY PROJECT

Vice-Chairwoman Horstman acknowledged that the project has been a long time in development and noted that it, along with the Lone Tree Overpass, will significantly impact traffic. She emphasized the importance of having clear detour plans in place and conducting community outreach to keep residents informed throughout the process.

Ms. Cameron agreed, recognizing the challenges ahead and stating that while the situation may not be easy, transparent and realistic communication is essential. She assured that staff is actively working to educate the community and keep them informed, especially given the number of major transportation

projects happening simultaneously.

RIO DE FLAG FLOOD CONTROL PROJECT

Councilmember House thanked staff for their work and praised Ms. Cameron for her impactful lobbying efforts in Washington, D.C. She emphasized that the project graphics will be valuable for educating the community, particularly in addressing concerns about water flow and demonstrating the thoughtful planning behind the improvements.

Vice-Chairwoman Horstman echoed this appreciation, noting that the project has been discussed for decades. She acknowledged the plan's effectiveness in flood mitigation and its importance to the community's long-term safety.

Councilmember Garcia, who has followed the project since before his time on Council, raised a technical question about water flow, specifically how the retention basins at Killip and the Wedge would interact during heavy flow from Spruce Wash. Mr. Henry explained that the Wedge will first take in as much flow as possible, with water being directed there via a pipe down Linda Vista. From the Wedge, water will continue along Grandview Drive. Designers created an inverted crown to manage additional flow, and while not all flow is fully contained, the system has multiple integrated components and temporary measures to manage capacity. He also noted that the current focus is on the north section of Spruce Wash, while the southern portion would be addressed in a future second phase.

Vice-Chairwoman Horstman highlighted how the drainage improvements exemplify collaboration between the city and county, particularly in the construction of the parkway basin and phase two work that reduces sediment and supports the overall effectiveness of the system.

Supervisor Vasquez commended the team, connecting the project's origins to the 2021 flooding events. He acknowledged that while the improvements may seem overbuilt, such infrastructure is critical for disaster preparedness and securing future funding. Supervisor Fowler also praised the collaborative work, pointing out the importance of federal funding and the team's creativity in bringing these much-needed community improvements to life.

7. Trail North of Elks Lodge Update

Transportation Planner Martin Ince and County Parks and Recreation Director Cynthia Nemeth provided a PowerPoint presentation that covered the following:

ELKS LODGE TRAIL
INTRODUCTION
DESCRIPTION
FUNCTION
TRAIL PROJECT
PROPERTY RIGHTS
MUSEUM OF NORTHERN ARIZONA
SOCIAL V. PUBLIC TRAIL
PLANNING EFFORTS
RECENT SURVEYS
PRIOR CITY-COUNTY TRAIL PARTNERSHIPS
DRAFT IGA
QUESTIONS

Councilmember Spence inquired whether the Intergovernmental Agreement (IGA) discussed was specific to the two-mile trail or a broader scope. Mr. Ince clarified that the IGA would be limited to this specific trail, though they could explore additional IGAs for other trails if needed.

Councilmember Aslan raised a question about the Arizona Trail, which passes near the proposed trail, and asked how the two trails are related. Mr. Ince explained that while the Arizona Trail intersects with Buffalo Trail, the two serve different purposes and the new trail would not function as an alternative to the Arizona Trail.

Councilmember Garcia thanked staff for their collaboration and inquired about Chickadee and Hootso streets, asking whether they are public or private roads. Mr. Ince clarified that these are private streets.

Vice-Chairwoman Horstman discussed the challenges surrounding the trail, noting it has been heavily used as a social trail and that nearby residents are aware of its existence. She noted that some residents are for this trail and others are not. She explained that during the water line project, when some residents in favor of the trail suggested aligning the trail with the waterline. Additionally, there have been discussions with the Forest Service about expanding their trail system, which could connect with this one. Vice-Chairwoman Horstman emphasized the opportunity this could present and mentioned positive responses from some residents, though some remain opposed. Efforts will continue to address concerns, and there may still be opportunities to adjust the trail route where acquisition issues exist.

David Pabst, David Simmer, Kelly and Rona Mortensen, Dave Boehmer, and Bill Charles submitted written comments in opposition to the formalizing the social trail into an official trail.

8. Open Call to the Public

None.

9. Informational Items To/From Board of Supervisors, City Council, and City and County Managers

The Board of Supervisors and City Councilmembers expressed gratitude for the staff and collaboration efforts.

Supervisor Vasquez spoke of the recent Mexican Consulate event and how successful it was for the community.

Councilmember Garcia expressed appreciation for staff and acknowledged Councilmember House's birthday.

10. Adjournment

The Joint City/County Work Session held April14, 2025, adjourned at 5:31 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CITY COUNCIL WORK SESSION / SPECIAL MEETING
TUESDAY, APRIL 22, 2025
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVE
3:00 P.M.

MINUTES

WORK SESSION

1. Call to Order

Mayor Daggett called the Work Session of the Flagstaff City Council held April 22, 2025, to order at 3:02 p.m.

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 work session, 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.

PRESENT: ABSENT:

MAYOR DAGGETT
VICE MAYOR SWEET
COUNCILMEMBER ASLAN
COUNCILMEMBER GARCIA
COUNCILMEMBER HOUSE
COUNCILMEMBER MATTHEWS (Virtually)
COUNCILMEMBER SPENCE

Others present: City Manager Greg Clifton; City Attorney Sterling Solomon.

3. Pledge of Allegiance, Mission Statement, and Land Acknowledgement

The Council and audience recited the pledge of allegiance, Councilmember Spence read the Mission Statement of the City of Flagstaff, and Councilmember Aslan read the 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.

Dr. Kate Rose, Director of the nonprofit Wild Steps, addressed Council and stated she is honored to recently receive a Sustainability Grant from the City for a pilot project for carpooling for Flagstaff families. She stated they are partnering with Flagstaff Unified School District and with a software that provides an app for the program to make it easy and accessible. The hope is to change the mentality that ridesharing is accessible for families.

Noah Baker, Wildfire Climate Specialist and Public Information Officer for the Pine Needle Pick Up Program, stated that the City is piloting in several neighborhoods. He stated the benefits of the program and how the program will be communicated to the community. He highlighted the community meetings and public input from the neighborhoods and will bring more information forward when it comes available.

Matthew Dyer addressed Council and stated that he made a public records request with the city and with the Police Department. He provided records he received and feels there are gaps of information and information missing. He stated multiple records requests have been made to understand how his business will be impacted by the ordinances in place for noise.

5. PROCLAMATIONS

A. Proclamation: International Dark Sky Week

Councilmember Aslan read the proclamation.

B. Proclamation: Fair Housing Month

Mayor Daggett read the proclamation.

C. Proclamation: Administrative Professionals' Day

Mayor Daggett read the proclamation.

D. Proclamation: Arab American Heritage Month

Councilmember House read the proclamation.

6. April Work Anniversaries

Senior Deputy City Manager Shannon Anderson highlighted those employees who have work anniversaries in April.

Rick Tadder expressed gratitude and appreciation for the recognition of his 30 years with the City.

7. City Manager Report

City Manager Greg Clifton briefly reviewed his report highlighting recent events and covered the rotation of divisions that will be presenting information for updates. The divisions for this Council meeting include the Community Development Division and the Housing Division.

Police Chief Connolly presented recent promotions within the Police Department.

Deputy City Manager Joanne Keene presented the recent awards for the Inner Basin Waterline Restoration.

Councilmember Spence asked if there was tour in place for the Inner Basin Waterline and Grants, Contracts, and Emergency Management Manager Stacey Brechler-Knaggs stated it would be in early June.

Housing and Grants Administrator Kristine Pavlik, provided a PowerPoint presentation that covered the following:

HOUSING SECTION COUNCIL UPDATE
HOUSING COMMISSION
BOND FUNDED PROGRAMS
LASS + CAP
10 YEAR HOUSING PLAN
AFFORDABLE RENTALS

Councilmember Aslan asked for clarification on the numbers for the Lake Mary Villas. Ms. Pavlik stated they are working on gathering information from the families so they will be ready to lease as soon as one becomes available as they are already at full capacity and have a waiting list.

Councilmember Aslan requested the raw numbers for the whole apartment building, not just the affordable housing units. Ms. Pavlik stated they will email the numbers over.

HOMEOWNERSHIP PROGRAMS
UNDER CONSTRUCTION
FAIR HOUSING MONTH
THANK YOU

Councilmember Garcia asked what neighborhoods could qualify for Rental Assistance Demonstration (RAD) project. Assistant Housing Director Justyna Costa stated that will be the purpose of hiring a consultant and that there is an open solicitation out right now. They have a tentative plan and stated that no one will lose their housing.

Councilmember Garcia expressed interest in meeting with the consultant to share community feedback. He also shared a personal story about a family member who recently moved into Lake Mary Villas under difficult circumstances, describing the experience as transformational and emphasizing the positive impact of having their own home. Ms. Costa stated that the RAD project will have a lot of community input.

Interim Community Development Director Michelle McNulty provided a PowerPoint presentation that covered the following:

COMMUNITY DEVELOPMENT UPDATE
NEW HIRES AND PROMOTIONS
WORK ANNIVERSARIES
ACCOMPLISHMENTS
602 E BUTLER AVE VEHICLE REMOVAL -- HOW IT STARTED
602 E BUTLER AVE VEHICLE REMOVAL -- HOW IT ENDED
DARK SKIES AT FOUNTAIN HILLS DARK SKY FESTIVAL
JWP SPECIFIC AREA PLAN KICK OFF MEETING

MAY HICKS HOUSE
REGIONAL PLAN UPDATE
UPCOMING ZONING COCDE AMENDMENTS
REAL ESTATE

8. **Barrier Free Flagstaff Presentation**

Sean Kugler from NAU, Keith Becker, and Joseph Spence all on behalf of Barrier Free Flagstaff provided a PowerPoint Presentation that covered the following:

THE ACCESSIBILITY EXPEDITION
AGENDA
FRAMEWORK AND PURPOSE
UNIVERSAL DESIGN
THE PITY TO POWER CONTINUUM
SIMULATIONS
HOW IT WORKS: ON THE PATH TO POWER
PARTICIPANTS
THE RULES
QUESTIONS TO CONSIDER
TASKS
THE DEBRIEF
ATTITUDINAL OUTCOMES
QUESTONS

Councilmember House expressed strong support for the initiative, emphasizing its importance to the community. She appreciated the presentation and the cartoon that was shared, asking how the Council could help move the effort forward and become actively involved.

Mr. Kugler provided an update on upcoming events, noting that leadership training is underway, with plans to begin at Joe C. Montoya in May and the Library in July. He clarified that the effort is an "expedition," designed to engage and educate, rather than a formal audit.

Mr. Becker emphasized that participation is open to everyone and that the goal is to educate staff and collaborate with local businesses wherever they go. He highlighted the importance of working together to improve accessibility and prevent potential legal issues.

Vice Mayor Sweet shared her experience touring the downtown connection center, noting the implementation of universal design principles.

Councilmember Spence inquired whether multifamily housing developers have shown interest in the program. Mr. Kugler responded that while there has been student involvement, especially from construction management programs, direct engagement with businesses is still limited. Councilmember Spence thanked him and expressed enthusiasm for the upcoming "Path to Power" experience.

Councilmember Garcia reflected on a powerful cartoon from the presentation, which reminded him of efforts during the library's redevelopment project to ensure ADA compliance and integrate art. He described the installation of a wide ramp and how community feedback played a role, expressing excitement to join the program.

Mr. Becker reiterated that one of the main objectives is collaboration and to build understanding and reduce risks. Mr. Kugler added that while audits are useful, expeditions serve a different purpose, focused on proactive engagement.

Mayor Daggett concluded by encouraging continued communication about future events and expressed appreciation for Mr. Becker's ongoing service and dedication to creating accessible spaces.

9. **Presentation and discussion regarding the City of Flagstaff Community Development Block Grant Program Year 2025 Annual Action Plan and Staff recommendations for Program Year 2025 CDBG funding allocations**

Housing and Grants Administrator Kristine Pavlik provided a PowerPoint presentation that covered the following:

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
TODAY
WHAT IS THE COMMUNITY DEVELOPMENT BLOCK GRANT?
CDBG REQUIREMENTS
CDBG PRIMARY AND NATIONAL OBJECTIVES
ELIGIBLE ACTIVITIES
TARGET NEIGHBORHOODS
CONSOLIDATED PLAN GOALS
HUD ANNUAL FUNDING CAPS
TIMELY EXPENDITURE
PROPOSAL PROCESS
ADDITIONAL CONSIDERATIONS AND CRITERIA
RISK ASSESSMENTS
PUBLIC PARTICIPATION OPPORTUNITIES
PROGRAM YEAR 2026 FUNDING ALLOCATION RECOMMENDATIONS
PROGRAM YEAR 2025 FUNDING AVAILABLE
PROGRAM YEAR 2025 PROPOSALS RECEIVED
HOUSING SOLUTIONS OF NORTHERN ARIZONA
COMMUNITY ASSISTANCE TEAMS OF FLAGSTAFF
HOMELESS YOUTH CONNECTION
NORTHLAND FAMILY HELP CENTER

Mayor Daggett asked if there was any overlap in the youth programs. Ms. Pavlik stated that for the Housing Program they use Homeless Management Information System (HMIS) to ensure there is no duplication, other services like tutoring may have some overlap services.

TYNKERTOPIA
FUNDING RECOMMENDATIONS
QUESTIONS, SUGGESTIONS & NEXT STEPS
CONTACT INFORMATION

Councilmember Aslan stated his concern about the federal administration's stance on urban development, noting a perceived intent to reduce or dismantle programs. He asked what the HUD representative was hearing in terms of federal support or threats to funding. Ms. Pavlik, responded that despite political tensions, operations are continuing year by year. She noted that legislation had been passed to maintain consistent funding from the previous year but emphasized the growing need for advocacy and coalition-building with other state groups to protect and advance these efforts.

Councilmember Aslan also brought up the Flagstaff Shelter Services (FSS), which frequently appears in these discussions. Ms. Pavlik explained that last year's funding had been allocated to two projects: the Lantern and the Crown. Due to regulatory complexities and high costs, funds initially designated for the Lantern, expected to cost millions, are being redirected to the Crown. Additional funding requests for FSS will likely emerge after its completion of the Lantern.

Councilmember House stated her support for the current recommendations and stated that during the Housing Commission's review of the recommendations, they asked a lot of questions which ended in unanimous support for the plan as presented. Councilmember Garcia also endorsed the recommendations, expressing enthusiasm for the selected programs.

Mayor Daggett asked about job rehabilitation programs and support for local entrepreneurship. She asked if job training programs aimed at helping residents start small businesses could be considered for funding. Ms. Pavlik responded that such initiatives would be ideal for economic development

funding but noted the need for an existing business or structured program to qualify. She suggested that partnerships with programs with the Economic Vitality Division or County-led initiatives could help meet those criteria. While job creation funding is limited, grant-based proposals for specific programs could offer more flexibility.

10. **Regional Plan Retreat - Review of Draft Agenda for May 2, 2025.**

Comprehensive and Neighborhood Planning Manager Sara Dechter provided a PowerPoint presentation that covered the following:

FLAGSTAFF REGIONAL LAND USE PLAN
FLAGSTAFF REGIONAL LAND USE PLAN 2045 -- RETREAT UPDATE
COMMENTS FROM BOS AND COUNTY PLANNING AND ZONING
MAY 2, 2025 JOINT RETREAT

11. **Adjournment**

The meeting of the Flagstaff City Council held April 22, 2025, adjourned at 5:33 p.m.

SPECIAL MEETING

1. **Call to Order**

Mayor Daggett called the Special Meeting of the Flagstaff City Council held April 22, 2025, to order at 5:33 p.m.

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 work session, 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. **Council Confirmation of Direction:** Approval of direction and instruction given by City Council to City Attorney in executive session on April 22, 2025 to approve amicus brief in support of petition to the Arizona Supreme Court for review of a ruling by the Court of Appeals dismissing a lawsuit against Desert Mountain Energy. In addition, approve the direction and instruction given in Executive Session on April 22, 2025 regarding the potential settlement of pending litigation.

Moved by Councilmember Anthony Garcia, **seconded by** Councilmember Lori Matthews to approve of direction and instruction given in Executive Session on April 22, 2025.

Vote: 7 - 0 Passed - Unanimously

3. **Open Call to the Public**

None.

4. **Informational Items To/From Mayor, Council, and City Manager; future agenda item requests**

Councilmember Garcia spoke of his recent visit to the State Capitol for the semi-quincentennial. He stated that he spoke with many legislators and encouraged visits to Flagstaff as well.

Vice Mayor Sweet reminded the community of a few upcoming events including for the week including the United Way Annual Meeting, the Dark Skies Event downtown, and the Viola Awards. She congratulated everyone nominated for the awards.

Councilmember House stated that it was National Community Development Week. She stated she attended the Green Ribbon Cutting for two electric buses for the school district. She also congratulated Sharon Lokedi, a Flagstaff resident, who came in first place in the Boston marathon.

Councilmember Spence stated he attended the Green Ribbon Cutting as well and how much it means to him as a former bus driver to see great strides for the school districts in clean energy.

Mayor Daggett stated that she finished her Mayor's Institute Program and spoke of her experience with the presentations. She also reminded the community that some of Council would be on the State Lobbying trip next week.

5. Adjournment

The Work Session of the Flagstaff City Council held April 22, 2025, adjourned at 5:42 p.m.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATION

I, STACY SALTZBURG, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on April 22, 2025. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 6th day of May, 2025

_____
CITY CLERK

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Georganna Staskey, Deputy City Clerk

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:
Proclamation: Jewish Heritage Month

STAFF RECOMMENDED ACTION:

Executive Summary:

Financial Impact:
Project Name:
Cost:
Account Number Budgeted:
FY Budgeted Amount:
Grant Funded:
Funding Source:

Policy Impact:

Previous Council Decision or Community Discussion:

Options and Alternatives to Recommended Action:

Connection to PBB Priorities and Objectives:

Connection to Regional Plan:

Connection to Carbon Neutrality Plan:

Connection to 10-Year Housing Plan:

Attachments: Proclamation

City of Flagstaff – Office of the Mayor

Proclamation

WHEREAS, the City of Flagstaff joins the Library of Congress, National Archives and Records Administration, and United States Holocaust Memorial in paying tribute to the generations of Jewish Americans who helped form the fabric of American history, culture and society; and

WHEREAS, Jewish American Heritage Month has been celebrated annually since 2006 when President George W. Bush declared, "As a nation of immigrants, the United States is better and stronger because Jewish people from all over the world have chosen to become American citizens; and

WHEREAS, Jewish American Heritage Month (JAHM) celebrates the inspiring history and vibrant living culture of Jewish Americans, serving as an antidote to antisemitism by amplifying the true, joyful, and powerful stories of Jewish life in America; and

WHEREAS, Flagstaff is home to vibrant centers of Jewish life, including Congregation Lev Shalom and Chabad of Flagstaff which host inclusive public community events.

NOW, THEREFORE, I, BECKY DAGGETT, MAYOR OF THE CITY OF FLAGSTAFF do hereby proclaim the month of May as

JEWISH AMERICAN HERITAGE MONTH

DATED this 6th day of May 2025

Becky Daggett

MAYOR

ATTEST:

Stacy Saltzburg

CITY CLERK

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Georganna Staskey, Deputy City Clerk

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:
Proclamation: Asian American, Native Hawaiian, and Pacific Islander (AANHPI) Heritage Month

STAFF RECOMMENDED ACTION:

Executive Summary:

Financial Impact:
Project Name:
Cost:
Account Number Budgeted:
FY Budgeted Amount:
Grant Funded:
Funding Source:

Policy Impact:

Previous Council Decision or Community Discussion:

Options and Alternatives to Recommended Action:

Connection to PBB Priorities and Objectives:

Connection to Regional Plan:

Connection to Carbon Neutrality Plan:

Connection to 10-Year Housing Plan:

Attachments: Proclamation

City of Flagstaff – Office of the Mayor

Proclamation

WHEREAS, the City of Flagstaff recognizes the importance of celebrating the cultural diversity and contributions of the Asian American, Native Hawaiian, and Pacific Islander (AANHPI) community; and

WHEREAS, AANHPI Heritage Month provides an opportunity for our community to honor the rich heritage, traditions, and history of Asian Americans, Native Hawaiians, and Pacific Islanders, who have greatly enriched the fabric of our society; and

WHEREAS, by celebrating AANHPI Heritage Month, we honor the resilience, perseverance, and achievements of the AANHPI community, and commit to building a more inclusive and equitable society for future generations; and

WHEREAS, The Federal Asian Pacific American Council has announced that the theme of 2025's Asian American, Native Hawaiian, and Pacific Islander (AANHPI) Heritage Month is "A Legacy of Leadership and Resilience," which honors the hard work of AANHPI leaders who established a foundation for future generations to thrive and adapt to change with resilience.

NOW, THEREFORE, I, BECKY DAGGETT, MAYOR OF THE CITY OF FLAGSTAFF do hereby proclaim the month of May as

ASIAN AMERICAN, NATIVE HAWAIIAN, AND PACIFIC ISLANDER (AANHPI) HERITAGE MONTH

DATED this 6th day of May 2025

Becky Daggett

MAYOR

ATTEST:

Stacy Saltzburg

CITY CLERK

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Georganna Staskey, Deputy City Clerk

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:
Proclamation: National Travel and Tourism Week

STAFF RECOMMENDED ACTION:

Executive Summary:

Financial Impact:
Project Name:
Cost:
Account Number Budgeted:
FY Budgeted Amount:
Grant Funded:
Funding Source:

Policy Impact:

Previous Council Decision or Community Discussion:

Options and Alternatives to Recommended Action:

Connection to PBB Priorities and Objectives:

Connection to Regional Plan:

Connection to Carbon Neutrality Plan:

Connection to 10-Year Housing Plan:

Attachments: Proclamation
Presentation

City of Flagstaff – Office of the Mayor

Proclamation

WHEREAS, National Travel and Tourism Week is an annual tradition presented by the US Travel Association. This year marks the 42nd anniversary of celebrating the industry's critical role in powering economies, communities, and connections moving travel forward. Every citizen benefits from travel and tourism; and

WHEREAS, the travel industry supports nearly 15 million American jobs and is a critical component to the economic vitality of communities in every state; and

WHEREAS, Flagstaff tourism supports approximately 8,000 jobs generating millions of dollars for the local economy; and

WHEREAS, according to Dean Runyan Associates, tourism provides economic stability to the community with an annual real tax savings of approximately $1,331 per household; and

WHEREAS, the travel industry has a profound economic impact on the United States. The U.S. travel industry generates $2.9 TRILLION in economic impact; and

WHEREAS, Discover Flagstaff focuses on encouraging Eco-Tourism this week to reflect our community values.

NOW, THEREFORE, I, BECKY DAGGETT, MAYOR OF THE CITY OF FLAGSTAFF, ARIZONA, recognize **May 4-10**, as

National Travel and Eco-Tourism Week

DATED this 6th day of May 2025.

Becky Daggett

MAYOR

ATTEST:

Stacy Saltzburg

CITY CLERK

National Travel & Tourism Week

Trace Ward,

Director, Discover Flagstaff

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

The Visitor Economy is Essential

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

NTTW
Powered by U.S. Travel Association

NATIONAL TRAVEL & TOURISM WEEK

MAY 4-10, 2025

The Visitor Economy is Essential

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Eco-National Tourism Week

May 4-10, 2025

Tourism Service Day

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

TOURISM SERVICE DAY

Please join us...

West Route 66

Flagstaff Trash Pick-Up followed with a free lunch.

Wednesday, May 7, 2025

Pick up: 10:30 am - 11:30 am
Lunch: 12:00 pm - 1:00 pm

Meet at:

FlagTag AZ
1801 W Route 66 #102

The Visitor Economy is Essential

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Trevor Henry, Capital Improvements Engineer

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Approval of Contract: Change Order No. 2 with Eagle Mountain Construction, Inc. in the amount of $439,009.00 for The Wedge Phase 3, GMP 5, Amendment No. Five, as part of the Spruce Wash Flood Mitigation Suite of Projects

STAFF RECOMMENDED ACTION:

1. Approve Change Order No. 2 for The Wedge Phase 3 in an amount of $439,009.00; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Staff recommends approval of Change Order No. 2, with Eagle Mountain Construction, Inc. (EMC), for the Spruce Wash Flood Mitigation Suite of Projects (the Suite). Change Order No. 2 would increase the amount for GMP No. 5 (Wedge Phase 3) by $439,009.00 for a total GMP#5 amount of $8,598,243.61.

The Wedge Phase 3 is part of the Spruce Wash Suite of Projects to address post-wildfire flood mitigation. The project includes construction of a detention basin on a City-owned parcel in the northwest corner of West Street and Cedar Avenue. The Wedge Phase 3 project is funded by a $7.0M U.S. Forest Service (USFS) grant, with a one to one City match, and by the November 2022 voter approved Proposition 441 Wildfire, Flood, and Wastewater Infrastructure Bond, which dedicated $26 million towards flood mitigation projects.

Council approved GMP No. 5 which includes The Wedge Phase 3 in the amount of $8,063,896.61. After award, it was determined that a few key components of the project must meet the Buy American clause of the grant agreement. These components include the steel slide gate which controls flow into the basin, the steel fencing for basin safety and the electrical gear components. To comply with the USFS grant agreement, materials must be sourced within the United States which increases the cost, specifically steel.

Financial Impact:

Change Order No. 2 will be funded from the Spruce Wash, The Wedge Phase 3 project, fund 410, account no. 410-08-385-3570-3 which includes a domestic grant award and Proposition 441 Funds from the FY 25 and FY26.

The approved FY25 budget is $4,541,809 and FY26 programmed budget is $7,184,474.

Policy Impact:

No Impact

Previous Council Decision or Community Discussion:

City Council previously approved Amendment No. Five with EMC for GMP No. 5, Wedge Phase 3, on November 12, 2024.

Options and Alternatives to Recommended Action:

1. Approve Change Order No. 2 as recommended. Approval will allow work to comply with the grant provisions; or,
2. Reject approval of the award as recommended. This action could forfeit the grant funding.
    a. If rejection occurs, possible options include:
        1. Ask staff to re-evaluate the recommendation; or
        2. Suspend the project and seek an alternate funding source which is uncertain and would delay or jeopardize completion.

Background and History:
On July 21, 2019, the Museum Fire broke out in the Dry Lake Hills area just above Flagstaff within the Coconino National Forest. The fire charred 1,961 acres, including a significant portion of the Spruce Wash Watershed. Throughout the summer of 2021, monsoon rain events on the Museum burn scar caused multiple flood events in Flagstaff neighborhoods.

In November 2022, voters approved Proposition 441 with support from 76% of Flagstaff voters. The Proposition invests $57 million in City of Flagstaff wildfire suppression, stormwater flood mitigation and wastewater treatment infrastructure. Specifically, $26 million of this funding will be used to fund stormwater infrastructure improvements in the Spruce Wash area to lessen the impacts of flooding in affected neighborhoods.

Engineering design commenced in 2022 for a suite of drainage improvements in the Museum flood areas of the Paradise, Grandview and Sunnyside neighborhoods. The suite of 10 projects is shown on the Key Flood Projects.

In April 2023, the City awarded Eagle Mountain Construction the CMAR design and construction phase services contract for the suite of projects. Construction commenced on the first project in the suite of projects soon after. There have been multiple GMPs since construction commenced which has allowed construction to continue while design is completed, grant opportunities have been explored and property is being acquired.

Connection to PBB Priorities and Objectives:

- Safe & Healthy Community: Ensure the built environment is safe through the use of consistent standards, rules & regulations, & land use practices.
- Sustainable, Innovative Infrastructure: Deliver outstanding services to residents through a healthy, well maintained infrastructure system.

Connection to Regional Plan:
Goal WR.5: Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.
Goal T.21: Improve transportation safety and efficiency for all modes.

Connection to Carbon Neutrality Plan:
IR-2: Ensure equity, accessibility, and inclusion across all City of Flagstaff Parks and Recreation facilities, helping all members of the Flagstaff community to meet their health and wellness needs.
WS-1: Improve water infrastructure and expand water reuse.

Connection to 10-Year Housing Plan:
None

Connection to Division Specific Plan:
None

Attachments: Change Order #2
Context Map
Vicinity Map

CITY OF FLAGSTAFF

☐ CONFIRMING CHANGE ORDER NO. _____
☐ DESIGN CONTRACT CHANGE ORDER NO. _____
☑ CONSTRUCTION CONTRACT CHANGE ORDER NO. 2
☐ CONTRACT ALLOWANCE UPDATE NO. _____

PROJECT NO. 3570 **PROJECT NAME:** The Wedge Phase 3

FILE NO. 03-23015 **PROJECT MANAGER:** Trevor Henry

FIRM NAME: Eagle Mountain Construction

Purchase Order Number: 25-002650 | **Line Number:** 1 | **Amount** $ 8,063,896.61

Change Order originated by: ☑ CITY OF FLAGSTAFF ☑ CONTRACTOR ☐ DESIGN FIRM ☐ OTHER: _____

DETAILED DESCRIPTION:

This change order is for a cost increase related to the "Buy American" grant provision on The Wedge Phase 3 project.

The Wedge Phase 3 project is part of the Spruce Wash suite of projects to address post-wildfire flood mitigation. The project includes construction of a detention basin on a City-owned parcel in the northwest corner of West Street and Cedar Avenue. The Wedge Phase 3 project is funded by a $7.0M USFS grant with a one to one City match.

Council approved GMP #5 which includes The Wedge Phase 3 in the amount of $8,063,896.61. After award, it was determined that a few key components of the project must meet the Buy American clause of the grant agreement. These components include the steel slide gate which controls flow into the basin, the steel fencing for basin safety and the electrical gear components.

The attached change order proposal from Eagle Mountain Construction shows the original and revised cost amounts for these components.

JUSTIFICATION:

To comply with the USFS grant agreement, materials must meet the Buy American preference. The requirement to source material within the United States increases the cost, specifically steel.

TIME ANALYSIS:

No additional time is requested.

COST ANALYSIS:

Change Order No. 2 will be funded from the Spruce Wash, The Wedge project, fund 410, account no. 410-08-385-3570-3-4442. The approved FY25 budget is $3,079,618 and FY26 programmed budget is $5,201,585. Please see the attached proposal from Eagle Mountain Construction dated February 27, 2025.

CITY OF FLAGSTAFF	*PROJECT STATUS FORM*
PROJECT NAME: The Wedge Phase 3	☐ Design ☑ Construction ☐ Other
PROJECT NO. 3570	**FILE NO.** 03-23015
ACCT. NO. 410-08-385-3570-3-4442 100.00 %	
ACCT. NO. _____ %	
COUNCIL APPROVAL DATE: 12/3/2024	**ORIGINAL CONTRACT AMOUNT:** $ 8,063,896.61
PROJECT BUDGET (FY 25 **)** $ 3,079,618.00	**PROJECT BUDGET (FY** 26 **)** $ 5,201,585.00
NOTICE TO PROCEED DATE: 03/21/2024	**ORIGINAL CONTRACT PERIOD (calendar days):** 1025
ORIGINAL COMPLETION DATE: 01/10/2027	**ORIGINAL CONTRACT ALLOWANCE:** $ 75,000.00
DESIGN FIRM: WSP	

Change Orders Revision Date	C.O. Amount New Total	C.O. Days New Total	Start Date New Comp. Date	REASON FOR CHANGE
1	$ 95,338.00	0	03/21/2024	Additional pavement repair on the Linda Vista slip lane.
	$ 8,159,234.61	1025	01/10/2027	
2	$ 439,009.00	0	03/21/2024	Material cost increases to meet the Buy America requirement of the grant.
	$ 8,598,243.61	1025	01/10/2027	
3				
4				
5				

COMMENTS: The allocations shown above are inclusive of all Change Orders shown.If there are more than 5 Change Orders, please request a separate form from Purchasing that includes additional spaces. Thank you!

		END DATES		
ORIGINAL CONTRACT PERIOD	1025 **Days**	(01/10/2027)	**ORIGINAL CONTRACT**	$ $ 8,063,896.61
PRIOR TIME CHANGES	0 **Days**	(01/10/2027)	**TOTAL PRIOR VALUE CHANGES**	$ $ 95,338.00
THIS TIME CHANGE	0 **Days**	(01/10/2027)	**VALUE OF THIS CHANGE**	$ $ 439,009.00
NEW CONTRACT PERIOD	1025 **Days**	(01/10/2027)	**NEW CONTRACT**	$ $ 8,598,243.61

CITY OF FLAGSTAFF

☐ CONFIRMING CHANGE ORDER NO. _____
☐ DESIGN CONTRACT CHANGE ORDER NO. _____
☑ CONSTRUCTION CONTRACT CHANGE ORDER NO. 2
☐ CONTRACT ALLOWANCE UPDATE NO. _____

PROJECT NO. 3570 **PROJECT NAME:** The Wedge Phase 3

FILE NO. 03-23015 **PROJECT MANAGER:** Trevor Henry

SIGNATURES

SUBMITTER

Project Manager	3/13/25 (Date)	**Approved Signature**	[signature]
Department Head	3/13/25 (Date)	**Approved Signature**	[signature] Digitally signed by Paul Mood Date: 2025.03.13 14:16:14 -07'00'

COMMITTEE

Water Services	2025-04-16 (Date)	**Approved Signature**	Douglas Slover Jr Digitally signed by Douglas Slover Jr DN: cn=Douglas Slover Jr, o, ou, email=dslover@flagstaffaz.gov, c=US Date: 2025.04.16 16:33:56 -07'00'
Public Works	_____ (Date)	**Approved Signature**	Absent
City Engineering	17 April 2025 (Date)	**Approved Signature**	[signature]
City Attorney	_____ (Date)	**Approved Signature**	Christina A. Kinnear Digitally signed by Christina A. Kinnear DN: cn=Christina A. Kinnear, o=City of Flagstaff, ou=City Attorney, email=christina.kinnear@flagstaffaz.gov, c=US Date: 2025.04.17 09:21:23 -07'00'
Finance	_____ (Date)	**Approved Signature**	Absent
Purchasing (Chair)	_____ (Date)	**Approved Signature**	_____

EXECUTIVE

City Manager	_____ (Date)	**Approved Signature**	_____

Council Meeting Date (if required) _____ **Council Approved?** Yes ☑ No ☐

We have given careful consideration to the proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, and perform all services necessary for the work specified.

FIRM NAME: Eagle Mountain Construction **Signature:** [signature]

Date: 03/13/2025 **Print Name and Title:** Marco Spagnuolo, CEO

Eagle Mountain Construction
3100 N. Caden Ct. - Flagstaff, AZ 86004
AZ ROC 315942, 315943

CHANGE ORDER PROPOSAL

To: **City of Flagstaff** Project: **Spruce Wash - Wedge Ph 3**
Attn: **Trevor Henry** COP #: **1** Rev#:
Date: **2/27/25**

Description:

This COP is submitted for the additional costs due to compliance with Grant Provisions issued after GMP 5 was generated. The costs identified below are what we've incurred through this date. EMC reserves the right to submit for additional compliance costs, should they arise.

	Description	Original	Revised	Quan	Unit	Unit Cost	Subtotal
	Increase for the Slide Gate & Appurtances	$ 71,889	$ 342,248	1.0	LS	$ 270,359.00	$ 270,359.00
	Increase for Electrical Gear	$ 163,852	$ 235,874	1.0	LS	$ 72,022.00	$ 72,022.00
	Increase for Modified FUTS Steel	$ 89,300	$ 114,840	1.0	LS	$ 25,540.00	$ 25,540.00
						Direct Costs	**$ 367,921.00**

Notice to Proceed Date	**21-Mar-24**	
Original Contract Time	1,025.0	days
Change in time by previous COP's	0.0	days
Revised Contract Time	1,025.0	days
Change in Time by this COP	0.0	days
Revised Contract Time	**1,025.0**	days
Revised Contract Completion Date	**10-Jan-27**	

Fee	10.5%	$ 38,631.71
Bond & Insur	1.90%	$ 7,724.50
Tax	5.97%	$ 24,731.79
Total this COP:		**$ 439,009.00**

Schedule Description:

This change adds no additional days to the contract duration at this time. EMC reserves the right to submit for time if needed, due to unknowns right now with domestic steel.

Marco Spagnuolo 2/27/2025
Eagel Mountain Construction Date

Approval - Client Date

HYDRO GATE®
a MUELLER brand

Address Purchase orders to
Henry Pratt Company, LLC
12000 E. 47th Ave.,
Suite 200
Denver, CO 80239

phone: 303-288-7873
fax: 303-287-8531
hydrogate.com

QUOTE # 2311003 R2

Date: July 26, 2024

Project Name: Flagstaff Slide Gate - AZ

Representative: Brett Hoffman – Southwest Valve & Equipment – 630-212-5057

Henry Pratt Company, LLC d/b/a Hydro Gate ("Hydro Gate" or "Seller") is pleased to offer you (the "Buyer") this Quotation for the Project.

Quantities and descriptions listed in this quotation were based on the following:
Emailed information only. Partial drawings. Partial specifications. Actual project requirements may affect your costs.

The equipment we have quoted meets or exceeds the specifications with the following clarifications:

NOTE: We have received no addendums for this project.

Conditions of Sale:

1. If awarded to Hydro Gate, we will need to be supplied with a full set of plans and specifications.

2. Prices and lead times quoted are firm for acceptance within 30 days of the bid date and apply to this Quotation only, subject to attached Terms & Conditions. Prices do not include sales or use tax. If this Quote is not accepted within 30 days after bid, Hydro Gate reserves the right to re-quote and price escalation may be necessary.

3. Hydro Gate's Standard Terms and Conditions of Sale and Limited Warranty apply to this quotation and are attached as Attachment A.

4. Please note these prices are based on receiving the entire order and Buyer's acceptance of Hydro Gate's Standard Terms and Conditions and Limited Warranty. Adjustments to item quantities or specifications or requested changes to Hydro Gate's Standard Terms and Conditions or Limited Warranty may alter the pricing.

5. Prices do not include third party inspection services of gates and equipment unless it is specifically required by specifications that Hydro Gate be responsible for cost of these inspections.

6. Hydro Gate will provide digital copies of all relevant Operation and Maintenance manuals. Contact Hydro Gate should custom manuals be required.

7. Non-machined, submerged ferrous surfaces to be blast cleaned and painted with 2 shop coats of manufacturer's standard epoxy paint.

8. This quotation reflects our policy of sourcing raw materials in the most cost effective manner. Any requirement for specific U.S content shall require a revised quotation.

9. Prices do not include installation of gates and equipment or lubricants for stems, gear units and bearings.

10. Mastic, grout, gaskets and epoxy capsules for anchors not by Hydro Gate.

11. Upon placing an order with Hydro Gate, Buyer must ensure that the approval of equipment be provided to Hydro Gate within 30 days of receiving submittals. Failure to do so may result in an increase of price in relation to market fluctuation of raw material costs.

12. Submittal and Production Lead times are subject to change at the time of order.

13. Please address all purchase orders to Henry Pratt Company, LLC 12000 East 47th Ave., Suite 200, Denver, CO 80239.

14. Purchase orders can be sent to HydroGateOrders@muellerwp.com.

15. Field service not included. If field service is needed, a charge of $1,500.00 will be made for each trip, plus $1,500.00 for each day including any holidays, weekends or other layovers made at the convenience of the contractor or engineer.

16. Top of Concrete and Invert Elevations have not been provided. Hydro Gate has estimated H' Distances based on head levels listed in partial gate schedule.

17. No specification or requirements provided for electric actuators. Hydro Gate has assumed Open / Close service with Nema 4x/6 enclosures, class F insulation, 15 minute duty motors, and local controls for 460volt/3phase/60hertz power supply. If this is incorrect, please contact Hydro Gate for pricing adjustments.

18. The equipment quoted for this project includes electric motor actuators. Actuator controls cannot be adjusted or preset at the factory. Complete instructions for proper setting of components are included with the unit when shipped. This quotation does not include any field service to adjust electric actuators and lubricate equipment unless specifically required by project specification. If a factory technician is preferred, field service rates that are in effect at time service is required shall apply. Contact Hydro Gate with a purchase order if this service is required.

19. Hydro Gate has assumed a 60" x 60" Square flange/Square opening 24" long 'F' Type thimble. If this is incorrect, please contact Hydro Gate for pricing and lead time adjustments.

Commercial Terms:

The delivery lead times are based on stock inventory at the time of quotation. Stock quantities and quoted delivery times must be re-evaluated and verified at time of order and/or time of release to manufacturing.

Freight:
F.O.B. shipping point, full freight allowed for standard shipments. Additional freight cost incurred to comply with Buyer's special requirements will be added to the invoice.

Field Service:
Hydro Gate will make every effort to provide a representative to meet your schedule, but due to conflicting requirements a request should be made no later than fourteen (14) days before a representative is required.

Where previous commitments have been made, some flexibility in your schedule should be anticipated. All field service trips will require a written confirmation prior to arriving at the site.

Drawings:
Submittal drawing lead time is estimated to be 8 to 10 weeks after formal acceptance of your written purchase order.

Extended Warranty:
Seller's Limited Warranty is for a period of 24 months from shipment. An extended warranty may be purchased at the following rates:

Add 2% of order value for a 36 month warranty
Add 3% of order value for a 48 month warranty
Add 5% of order value for a 60 month warranty

Quotation Number:

Item Number	:	01
Qty/Size	:	1 – 60" x 60"
Gate	:	Heavy Duty sluice Gate with cast iron frame and slide, bronze seating faces, bronze wedges, flush bottom seal and stainless steel fasteners.
Mounting	:	Stainless steel anchor bolts.
Lift	:	Pedestal mounted electric actuator for 460 Volt, 3-Phase, 60 hertz power, local electrical control station. Type 304 stainless steel stem and plastic stem cover with mylar position indicator. **Packing Gland included.**
H-Distance	:	30.77' (from centerline)
Gate Ship	:	24-28 weeks after drawing and credit approval.
Thimble Ship:		24-28 weeks after drawing and credit approval.
Actuator Ship:		TBD
Price Each	:	$ 71,889.00

Total price for items listed above: $ 71,889.00

Thank you for your interest in our product. If any questions arise regarding this quotation, please contact Hydro Gate.

Regards,

MUELLER | Branden Hempelman
Technical Sales Engineer

12000 E. 47th Avenue - Suite 200 Denver, Colorado 80239
office: 720.884.6742 | **mobile**: 720.884.6742 | **muellerwp.com**

Attachment A

MUELLER

TERMS AND CONDITIONS OF SALE

1. PURCHASE ORDERS. Address purchase orders to Henry Pratt Company, LLC d/b/a Hydro Gate, 12000 East 47th Avenue, Suite 200, Denver, CO 80239-3115, either Henry Pratt Company, LLC or Henry Pratt Company, LLC d/b/a Hydro Gate ("Seller"). Purchase orders can be sent to HydroGateOrders@muellerwp.com.
2. PAYMENT. Payment is due 100% net 30 days after the invoice date. No retainage or portion of the amount due may be held for any reason. Payment is not contingent on payment from or approval of any third party. All orders and shipments are subject to credit approval. Waivers of lien will be provided upon request after full payment is received. Remittance should be to Henry Pratt Company, LLC, 23418 Network Place, Chicago, IL 60673-1234. If the Buyer fails to pay Seller as specified herein, the Buyer agrees to pay all collection costs, attorney fees, and expenses incurred in collecting payment, including interest at the maximum legal rate. The Buyer will pay all transportation, insurance, and similar charges incident to delivery of products.
3. PRICING AND PRICING ADJUSTMENTS. Except as described in this section below, pricing is valid for shipments of material conducted within one (1) year from the date of purchase order. If an order does not have a scheduled release and shipment date within one (1) year from date of purchase order, or receives a release date beyond one (1) year, then the Buyer agrees to accept scheduling price adjustments. Scheduling price adjustments will be made in accordance with the percentage change in the Producer Price Index by Industry: Metal Valve Manufacturing (PCU33291-33291-Not Seasonally Adjusted). The primary official source of PPI data is the BLS Website. Scheduling price adjustments shall always use the latest version of the PPI data published at the time of shipment. The scheduling price adjustment rate will be determined by comparing base rate from the index at the time of the purchase order to the rate on the date of the shipment and determining the positive percentage change between those two dates. This percentage change will be applied to increase the original purchase price. In addition to the above, quoted prices may increase if shipment is delayed beyond scheduled shipping date due to Buyer's delay. Specifically, if an order does not ship within sixty (60) days from original ship or release date, then the Buyer agrees to accept an shipping price adjustment equal to two percent (2.0%) of the value of the shippable product per originating purchase order per month for an order released more than sixty (60) days from the original ship date and equal to four percent (4.0%) of the value of the purchase order per month for an order released more than one hundred twenty (120) days from the original ship date. Any price adjustment will be made as an increase of the original purchase price. Buyer will pay all transportation, insurance and similar charges incident to delivery of products.
4. TAXES. Quoted prices exclude sales, use or other taxes. Where applicable, all taxes will be billed to the Buyer at time of shipment, unless the Buyer provides proper exemption documentation before shipment is invoiced.
5. SHIPMENTS. Unless otherwise noted, quoted price is F.O.B. shipping point with full freight allowance to jobsite. The Buyer will pursue claims directly with carrier for products received that were damaged in transit. Each shipment will be accompanied by a packing list. The Buyer will check shipment against packing list and report any shortages and discrepancies in writing to the Seller within five (5) business days after receipt.
6. DELIVERY. Quoted shipping dates are estimates only. The Seller will meet quoted schedules or reflect current schedules upon order acknowledgement. Lead-time will be as mutually agreed to at the time of product release to manufacture and credit package approval by the Seller. The Seller will not be responsible for delay in deliveries due to any cause beyond the Seller's reasonable control, including, but not limited to, acts of God or the elements, civil insurrection, acts of war or terrorism, unusual health and safety situations, disease (including, but not limited to, COVID-19), epidemics, quarantine restrictions, inability to obtain necessary labor, materials or manufacturing facilities, labor disputes, riots, boycotts, civil or military authority, transportation and/or supply distribution disruption, fires, floods, or other severe weather, governmental actions (including, but not limited to tariffs, embargos, trade war or similar charges), or another situation which by its nature could not have been reasonably foreseen by Seller. In the event of a delay, the date of delivery will be extended for a length of time equal to the period of the delay.
7. CANCELLATIONS/DELAYS. The Buyer may cancel this order only with the prior written consent of the Seller. The Buyer agrees to pay the Seller a cancellation charge for any such cancelled order, which charge will be no less than ten percent (10%) of purchase price.
8. WARRANTY/LIMITATION OF LIABILITY. The purchase, purchase orders, and products referenced in these terms and conditions are subject to the warranties specified at: https://www.muellerwaterproducts.com/terms-conditions.
9. DAMAGES. The Seller will not be liable for special, indirect, consequential, incidental, liquidated or punitive damages of any kind (including, but not limited to, loss of use, revenue or profits, inventory or use charges, cost of capital or claims of customers) incurred by the Buyer or a third party. Total liability of the Seller, including its affiliates, officers, employees, agents, subcontractors, suppliers and representatives (the "Protected Group") with respect to the order or a breach thereof, is capped at the price paid to the Seller for the specific product giving rise to the claim.

10. INDEMNITY. The Buyer agrees to indemnify, hold harmless, and defend the Protected Group, against any and all judgments, losses, damages, expenses, costs, including defense costs and legal fees, arising from any and all claims for liability arising or claimed to arise from any act or omission of the Buyer or the Seller in any way related to this order or products. To the extent the aforesaid obligation is prohibited by law, obligation will, but only to extent of such prohibition, be null and void. The remainder of the Buyer's indemnity obligations will remain in effect.
11. LAW/VENUE. No suit or cause of action or other proceeding will be brought against either party more than one (1) year after accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract or any other theory. These terms will be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to conflict of law rules) as to all matters. The parties irrevocably submit to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois.
12. EXPORT/IMPORT. The Buyer will comply with all applicable import and export control laws and/or regulations, including without limitation those of the U.S. and/or other jurisdictions from which products may be supplied or to which they may be shipped. The Buyer will not use, transfer, release, import, export or re-export products in violation of such applicable laws and/or regulations.
13. GENERAL. The Seller reserves the right to modify and update these Terms and Conditions of Sale from time to time on its website at https://www.muellerwaterproducts.com/terms-conditions. The Seller's waiver of any performance will not constitute a waiver of any other performance. These conditions supersede any prior written or oral agreement, understanding, representation or promise, and any pre-printed or standard terms and conditions contained in the Buyer's request for quote, purchase order, invoice, order acknowledgement or similar document.

Mueller refers to one or more of Mueller Water Products, Inc., a Delaware corporation ("MWP"), and its subsidiaries. MWP and each of subsidiaries are legally separate and independent entities when providing products and services. MWP does not provide products or services to third parties. MWP and each of its subsidiaries are liable only for their own acts and omissions and not those of each other. MWP brands include Mueller®, Echologics®, Hydro Gate®, Hydro- Guard®, HYMAX®, i2O®, Jones®, Krausz®, Mi.Net®, Milliken®, Pratt®, Pratt Industrial®, Singer®, and U.S. Pipe Valve & Hydrant. Please see http://www.muellerwp.com/brands to learn more.

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F 13313 12/2023

MUELLER

LIMITED WARRANTY

2-Year Warranty

Henry Pratt Company, LLC ("Seller") warrants that each of its products branded PRATT or HYDRO GATE supplied hereunder is free from defects in materials and workmanship (the "Warranty") for a period of twenty-four (24) months from the date of shipment from Seller to Buyer (the "Warranty Period"). Seller agrees, at its sole option, and at Buyer's sole and exclusive remedy, to repair, replace, or refund the unit purchase price of any product which is non-conforming to the Warranty due to Seller's defective workmanship or defective material of which Warranty non-conformance Buyer notifies Seller in writing during the Warranty Period. Buyer shall give written notice within fifteen (15) calendar days of the discovery of any alleged Warranty non-conformance to Seller's Field Service Supervisor, and prior to any repair or replacement work being performed on the non-conforming product, in order to maintain this product Warranty (i.e., otherwise Buyer voids the Warranty). Seller shall have the right to inspect the product for which a Warranty claim is made. Buyer shall return the product to Seller upon Seller's request for such inspection. Buyer shall assume all responsibility and expense for removal, reinstallation, and shipping charges in connection with this Warranty. Seller's obligations hereunder are conditioned upon prompt written notice of the alleged defect from the Buyer.

This Warranty does not apply to products that have defects or failures resulting from (a) Buyer's design; (b) accident, disaster, neglect, abuse, misuse, improper handling, testing, storage or installation by any party other than Seller; (c) external forces, such as, but not limited to, acts of God or the elements, vandalism, accident, vehicular or other impact, societal disruption (for example, war, terrorism, riot, civil unrest), application of excessive torque to the operating mechanism, presence of foreign matter, or frost heave; (d) the products not being installed or maintained as required by Seller's instructions, common practice, and/or applicable laws; (e) the defect arises, in whole or part, because Buyer failed to follow Seller's instructions or local codes as to the storage, installation, commissioning, use or maintenance of the products; (f) Buyer makes any further use of such products after giving such notice and (g) unauthorized alterations, modifications or repairs by any party other than Seller. Seller does not warrant water-operated metallic cylinders against damage caused by corrosion, electrolysis or mineral deposits.

Seller will not be responsible for the Warranty unless: (i) Buyer gives prompt written notice of the alleged defect, reasonably described, to Seller from when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such products, and Buyer (if requested to do so by Seller) returns such products to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the products are defective.

THE REMEDIES SET FORTH IN THIS WARRANTY SHALL CONSTITUTE BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S SOLE AND EXCLUSIVE OBLIGATIONS, FOR A NON-CONFORMING PRODUCT UNDER THIS WARRANTY. THE WARRANTY IS IN LIEU OF, AND SELLER EXPRESSLY DISCLAIMS, AND BUYER EXPRESSLY WAIVES, ALL OTHER WARRANTIES WHATSOEVER WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING BY COURSE OF DEALING OR PERFORMANCE OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR INFRINGEMENT OR MISAPPROPRIATION OF ANY RIGHT, TITLE OR INTEREST OF BUYER OR ANY THIRD PARTY, OR OTHERWISE. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY SELLER, ITS AGENTS OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER.

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER OR TO ANY OTHER PERSON UNDER ANY CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE CLAIM OR THEORY FOR ANY SPECIAL, INCIDENTAL, LIQUIDATED, CONSEQUENTIAL, OR INDIRECT DAMAGES, OR FOR ANY AND ALL OTHER DAMAGES, LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES WHETHER SUCH PARTY WAS INFORMED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. NOTWITHSTANDING THE FOREGOING OR ANY OTHER CLAIM OR OBLIGATION, SELLER'S MAXIMUM AGGREGATE OBLIGATION TO BUYER SHALL NOT EXCEED THE UNIT PURCHASE PRICE OF THE PRODUCT GIVING RISE TO THE WARRANTY CLAIM.

Products manufactured by a third party ("Third-Party Product") may constitute, contain, be contained in, be incorporated into, be attached to or packaged together with, the products. Third-Party Products are not covered by the Warranty. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY, AND SELLER EXPRESSLY DISCLAIMS ANY, WARRANTY OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF TITLE, OR AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; WHETHER ANY OF THE FOREGOING ARE (OR ARE BELIEVED TO BE) EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

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F 14169 12/2023

HYDRO GATE®
a MUELLER brand

Address Purchase orders to
Henry Pratt Company, LLC
12000 E. 47th Ave.,
Suite 200
Denver, CO 80239

phone: 303-288-7873
fax: 303-287-8531
hydrogate.com

QUOTE # 2311003 R3

Date: July 26, 2024

Project Name: Flagstaff Slide Gate - AZ

Representative: Brett Hoffman – Southwest Valve & Equipment – 630-212-5057

Henry Pratt Company, LLC d/b/a Hydro Gate ("Hydro Gate" or "Seller") is pleased to offer you (the "Buyer") this Quotation for the Project.

Quantities and descriptions listed in this quotation were based on the following:
Emailed information only. Partial drawings. Partial specifications. Actual project requirements may affect your costs.

The equipment we have quoted meets or exceeds the specifications with the following clarifications:

NOTE: We have received no addendums for this project.

Conditions of Sale:

1. If awarded to Hydro Gate, we will need to be supplied with a full set of plans and specifications.

2. Prices and lead times quoted are firm for acceptance within 30 days of the bid date and apply to this Quotation only, subject to attached Terms & Conditions. Prices do not include sales or use tax. If this Quote is not accepted within 30 days after bid, Hydro Gate reserves the right to re-quote and price escalation may be necessary. **Please note: The quoted price may be adjusted within the 30 days quote period for any unexpected cost increase, such as import tariffs.**

3. Hydro Gate's Standard Terms and Conditions of Sale and Limited Warranty apply to this quotation and are attached as Attachment A.

4. Please note these prices are based on receiving the entire order and Buyer's acceptance of Hydro Gate's Standard Terms and Conditions and Limited Warranty. Adjustments to item quantities or specifications or requested changes to Hydro Gate's Standard Terms and Conditions or Limited Warranty may alter the pricing.

5. Prices do not include third party inspection services of gates and equipment unless it is specifically required by specifications that Hydro Gate be responsible for cost of these inspections.

6. Hydro Gate will provide digital copies of all relevant Operation and Maintenance manuals. Contact Hydro Gate should custom manuals be required.

7. Non-machined, submerged ferrous surfaces to be blast cleaned and painted with 2 shop coats of manufacturer's standard epoxy paint.

8. ~~This quotation reflects our policy of sourcing raw materials in the most cost effective manner. Any requirement for specific U.S content shall require a revised quotation.~~

9. Prices do not include installation of gates and equipment or lubricants for stems, gear units and bearings.

10. Mastic, grout, gaskets and epoxy capsules for anchors not by Hydro Gate.

11. Upon placing an order with Hydro Gate, Buyer must ensure that the approval of equipment be provided to Hydro Gate within 30 days of receiving submittals. Failure to do so may result in an increase of price in relation to market fluctuation of raw material costs.

12. Submittal and Production Lead times are subject to change at the time of order.

13. Please address all purchase orders to Henry Pratt Company, LLC 12000 East 47th Ave., Suite 200, Denver, CO 80239.

14. Purchase orders can be sent to HydroGateOrders@muellerwp.com.

15. Field service not included. If field service is needed, a charge of $1,500.00 will be made for each trip, plus $1,500.00 for each day including any holidays, weekends or other layovers made at the convenience of the contractor or engineer.

16. Top of Concrete and Invert Elevations have not been provided. Hydro Gate has estimated H' Distances based on head levels listed in partial gate schedule.

17. No specification or requirements provided for electric actuators. Hydro Gate has assumed Open / Close service with Nema 4x/6 enclosures, class F insulation, 15 minute duty motors, and local controls for 460volt/3phase/60hertz power supply. If this is incorrect, please contact Hydro Gate for pricing adjustments.

18. The equipment quoted for this project includes electric motor actuators. Actuator controls cannot be adjusted or preset at the factory. Complete instructions for proper setting of components are included with the unit when shipped. This quotation does not include any field service to adjust electric actuators and lubricate equipment unless specifically required by project specification. If a factory technician is preferred, field service rates that are in effect at time service is required shall apply. Contact Hydro Gate with a purchase order if this service is required.

19. Hydro Gate has assumed a 60" x 60" Square flange/Square opening 24" long 'F' Type thimble. If this is incorrect, please contact Hydro Gate for pricing and lead time adjustments.

20. R3 Created 12/30/2024.

21. Hydro Gate has quoted domestic material sourcing in order to comply with the Build America, Buy America requirements listed in the specifications. If any project specific certification or documentation is to be supplied by Hydro Gate, please forward those requirements to us for our review. Please note that Hydro Gate has quoted domestic material for the gate systems only. Gearboxes or actuators and their appurtenances must be certified by the actuation vendor, not Hydro Gate.

Commercial Terms:

The delivery lead times are based on stock inventory at the time of quotation. Stock quantities and quoted delivery times must be re-evaluated and verified at time of order and/or time of release to manufacturing.

Freight:
F.O.B. shipping point, full freight allowed for standard shipments. Additional freight cost incurred to comply with Buyer's special requirements will be added to the invoice.

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Hydro Gate will make every effort to provide a representative to meet your schedule, but due to conflicting requirements a request should be made no later than fourteen (14) days before a representative is required. Where previous commitments have been made, some flexibility in your schedule should be anticipated. All field service trips will require a written confirmation prior to arriving at the site.

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Add 2% of order value for a 36 month warranty
Add 3% of order value for a 48 month warranty
Add 5% of order value for a 60 month warranty

HYDRO GATE
a MUELLER brand

Quotation Number: 2311003 R3

Item Number	:	01
Qty/Size	:	1 – 60” x 60”
Gate	:	Heavy Duty sluice Gate with cast iron frame and slide, bronze seating faces, bronze wedges, flush bottom seal and stainless steel fasteners.
Mounting	:	Stainless steel anchor bolts.
Lift	:	Pedestal mounted electric actuator for 460 Volt, 3-Phase, 60 hertz power, local electrical control station. Type 304 stainless steel stem and plastic stem cover with mylar position indicator. **Packing Gland included.**
H-Distance	:	30.77’ (from centerline)
Gate Ship	:	32-36 weeks after drawing and credit approval.
Thimble Ship:		32-36 weeks after drawing and credit approval.
Actuator Ship:		TBD
Price Each	:	**$342,248**

Total price for items listed above: $ 342,248.00

Thank you for your interest in our product. If any questions arise regarding this quotation, please contact Hydro Gate.

Regards,

MUELLER | **Branden Hempelman**
Technical Sales Engineer

12000 E. 47th Avenue - Suite 200 Denver, Colorado 80239
office: 720.884.6742 | **mobile**: 720.884.6742 | **muellerwp.com**

Attachment A

MUELLER

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4. TAXES. Quoted prices exclude sales, use or other taxes. Where applicable, all taxes will be billed to the Buyer at time of shipment, unless the Buyer provides proper exemption documentation before shipment is invoiced.
5. SHIPMENTS. Unless otherwise noted, quoted price is F.O.B. shipping point with full freight allowance to jobsite. The Buyer will pursue claims directly with carrier for products received that were damaged in transit. Each shipment will be accompanied by a packing list. The Buyer will check shipment against packing list and report any shortages and discrepancies in writing to the Seller within five (5) business days after receipt.
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7. CANCELLATIONS/DELAYS. The Buyer may cancel this order only with the prior written consent of the Seller. The Buyer agrees to pay the Seller a cancellation charge for any such cancelled order, which charge will be no less than ten percent (10%) of purchase price.
8. WARRANTY/LIMITATION OF LIABILITY. The purchase, purchase orders, and products referenced in these terms and conditions are subject to the warranties specified at: https://www.muellerwaterproducts.com/terms-conditions.
9. DAMAGES. The Seller will not be liable for special, indirect, consequential, incidental, liquidated or punitive damages of any kind (including, but not limited to, loss of use, revenue or profits, inventory or use charges, cost of capital or claims of customers) incurred by the Buyer or a third party. Total liability of the Seller, including its affiliates, officers, employees, agents, subcontractors, suppliers and representatives (the "Protected Group") with respect to the order or a breach thereof, is capped at the price paid to the Seller for the specific product giving rise to the claim.

10. INDEMNITY. The Buyer agrees to indemnify, hold harmless, and defend the Protected Group, against any and all judgments, losses, damages, expenses, costs, including defense costs and legal fees, arising from any and all claims for liability arising or claimed to arise from any act or omission of the Buyer or the Seller in any way related to this order or products. To the extent the aforesaid obligation is prohibited by law, obligation will, but only to extent of such prohibition, be null and void. The remainder of the Buyer's indemnity obligations will remain in effect.
11. LAW/VENUE. No suit or cause of action or other proceeding will be brought against either party more than one (1) year after accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract or any other theory. These terms will be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to conflict of law rules) as to all matters. The parties irrevocably submit to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois.
12. EXPORT/IMPORT. The Buyer will comply with all applicable import and export control laws and/or regulations, including without limitation those of the U.S. and/or other jurisdictions from which products may be supplied or to which they may be shipped. The Buyer will not use, transfer, release, import, export or re-export products in violation of such applicable laws and/or regulations.
13. GENERAL. The Seller reserves the right to modify and update these Terms and Conditions of Sale from time to time on its website at https://www.muellerwaterproducts.com/terms-conditions. The Seller's waiver of any performance will not constitute a waiver of any other performance. These conditions supersede any prior written or oral agreement, understanding, representation or promise, and any pre-printed or standard terms and conditions contained in the Buyer's request for quote, purchase order, invoice, order acknowledgement or similar document.

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F 13313 12/2023

MUELLER

LIMITED WARRANTY

2-Year Warranty

Henry Pratt Company, LLC ("Seller") warrants that each of its products branded PRATT or HYDRO GATE supplied hereunder is free from defects in materials and workmanship (the "Warranty") for a period of twenty-four (24) months from the date of shipment from Seller to Buyer (the "Warranty Period"). Seller agrees, at its sole option, and at Buyer's sole and exclusive remedy, to repair, replace, or refund the unit purchase price of any product which is non-conforming to the Warranty due to Seller's defective workmanship or defective material of which Warranty non-conformance Buyer notifies Seller in writing during the Warranty Period. Buyer shall give written notice within fifteen (15) calendar days of the discovery of any alleged Warranty non-conformance to Seller's Field Service Supervisor, and prior to any repair or replacement work being performed on the non-conforming product, in order to maintain this product Warranty (i.e., otherwise Buyer voids the Warranty). Seller shall have the right to inspect the product for which a Warranty claim is made. Buyer shall return the product to Seller upon Seller's request for such inspection. Buyer shall assume all responsibility and expense for removal, reinstallation, and shipping charges in connection with this Warranty. Seller's obligations hereunder are conditioned upon prompt written notice of the alleged defect from the Buyer.

This Warranty does not apply to products that have defects or failures resulting from (a) Buyer's design; (b) accident, disaster, neglect, abuse, misuse, improper handling, testing, storage or installation by any party other than Seller; (c) external forces, such as, but not limited to, acts of God or the elements, vandalism, accident, vehicular or other impact, societal disruption (for example, war, terrorism, riot, civil unrest), application of excessive torque to the operating mechanism, presence of foreign matter, or frost heave; (d) the products not being installed or maintained as required by Seller's instructions, common practice, and/or applicable laws; (e) the defect arises, in whole or part, because Buyer failed to follow Seller's instructions or local codes as to the storage, installation, commissioning, use or maintenance of the products; (f) Buyer makes any further use of such products after giving such notice and (g) unauthorized alterations, modifications or repairs by any party other than Seller. Seller does not warrant water-operated metallic cylinders against damage caused by corrosion, electrolysis or mineral deposits.

Seller will not be responsible for the Warranty unless: (i) Buyer gives prompt written notice of the alleged defect, reasonably described, to Seller from when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such products, and Buyer (if requested to do so by Seller) returns such products to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the products are defective.

THE REMEDIES SET FORTH IN THIS WARRANTY SHALL CONSTITUTE BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S SOLE AND EXCLUSIVE OBLIGATIONS, FOR A NON-CONFORMING PRODUCT UNDER THIS WARRANTY. THE WARRANTY IS IN LIEU OF, AND SELLER EXPRESSLY DISCLAIMS, AND BUYER EXPRESSLY WAIVES, ALL OTHER WARRANTIES WHATSOEVER WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING BY COURSE OF DEALING OR PERFORMANCE OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR INFRINGEMENT OR MISAPPROPRIATION OF ANY RIGHT, TITLE OR INTEREST OF BUYER OR ANY THIRD PARTY, OR OTHERWISE. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY SELLER, ITS AGENTS OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER.

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER OR TO ANY OTHER PERSON UNDER ANY CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE CLAIM OR THEORY FOR ANY SPECIAL, INCIDENTAL, LIQUIDATED, CONSEQUENTIAL, OR INDIRECT DAMAGES, OR FOR ANY AND ALL OTHER DAMAGES, LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES WHETHER SUCH PARTY WAS INFORMED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. NOTWITHSTANDING THE FOREGOING OR ANY OTHER CLAIM OR OBLIGATION, SELLER'S MAXIMUM AGGREGATE OBLIGATION TO BUYER SHALL NOT EXCEED THE UNIT PURCHASE PRICE OF THE PRODUCT GIVING RISE TO THE WARRANTY CLAIM.

Products manufactured by a third party ("Third-Party Product") may constitute, contain, be contained in, be incorporated into, be attached to or packaged together with, the products. Third-Party Products are not covered by the Warranty. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY, AND SELLER EXPRESSLY DISCLAIMS ANY, WARRANTY OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF TITLE, OR AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; WHETHER ANY OF THE FOREGOING ARE (OR ARE BELIEVED TO BE) EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

Mueller refers to one or more of Mueller Water Products, Inc., a Delaware corporation ("MWP"), and its subsidiaries. MWP and each of subsidiaries are legally separate and independent entities when providing products and services. MWP does not provide products or services to third parties. MWP and each of its subsidiaries are liable only for their own acts and omissions and not those of each other. MWP brands include Mueller®, Echologics®, Hydro Gate®, Hydro-Guard®, HYMAX®, i2O®, Jones®, Krausz®, Mi.Net®, Milliken®, Pratt®, Pratt Industrial®, Singer®, and U.S. Pipe Valve & Hydrant. Please see http://www.muellerwp.com/brands to learn more.

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F 14169 12/2023

SPECTRA Electrical Services
2519 W. Geneva Drive
Tempe, Arizona 85282
(480) 446-7200
fax (480) 446-7300

DATA ENTRY PROGRAMMING FOR BID and COST ANALYSIS - ORIGINAL ESTIMATE - 40 HOUR WW (5x8 Mon thru Fri)

CUSTOMER:	Eagle Mountain	**PROPOSAL DATE:**	9-Sep-24
ADDRESS:	3100 N. Caden Ct	**PROPOSAL TIME:**	3PM
	Flagstaff AZ 86604		
CONTACT:	Marco Spagnulo	**PROPOSAL #:**	24-0294
E-MAIL:	marco@emcaz.com	**REV #:**	Original
PROJECT NAME:	Spruce Wash Watershed Improvements	**PROPOSAL TYPE:**	Lump Sum

I. SCOPE OF WORK

This proposal has been prepared by SES and is submitted in strict confidence, based upon the following bid documents -

E-Sheets: E0.1, E1.1, E2.1, E2.2

Dated: 6/25/2024

Specifications: Per Plans
Dated: 6/25/2024

Engineer: WSP - Randy Cook Jr

Addendum: ***Dated:*** ***Addendum:*** ***Dated:*** ***Addendum:*** ***Dated:*** ***Addendum:*** ***Dated:***

II. CLARIFICATIONS / INCLUSIONS / EXCLUSIONS

a.) This proposal shall remain valid for ***15*** days from the date indicated above.
b.) SES reserves the right to negotiate a fair and equitable contract or subcontract agreement.
c.) Please reference the Attachments 'A', 'B', 'C', etc. for proposal clarifications, inclusions & exclusions.

III. SPECIAL NOTE:

a.) The proposal price for this project has been calculated based on the current prices and availability for the *commodity MATERIALS listed below. However, the market for the materials that are hereafter specified is considered to be **volatile** and sudden price could occur. Spectra Electrical Services, Inc. (hereinafter referred to as SES) agrees to use our best effort to obtain the lowest possible prices increases or lack of availability from available material suppliers, but should there be an increase in excess of 5% in the prices of these specified materials that are purchased after execution of a contract for use in this project, the Owner agrees to pay the cost increase above **5%** to SES Any claim by SES for payment of a cost increase, as provided above, shall require written notice delivered by SES to the Owner / General Contractor stating the increase cost, the material or materials in question and the source of supply supported by invoices or bills of sale.
*Commodity MATERIALS definition is as follows: PVC, Steel, Copper, Aluminum and All Petroleum Based Products. Spectra also reserves the right to negotiate a fair and mutual equitible schedule and contract terms.

b.) We reserve the right to negotiate a fair and mutally equitable subcontract Agreement, including schedule.

IV. BASE BID COST PROPOSAL

COST		$	163,852
P&P Bond (if req'd)		$	-
Non-MRRA -TAX @		$	-
MRRA -TAX @		$	-
TOTAL PROPOSED AMOUNT		**$**	**163,852**

YEAR	EMR
2024	0.99
2023	0.98
2022	0.99

zero injuries
Strength in Numbers!

Thank you,
Spectra Electrical Services, Inc.

Prepared By **David Barndollar**

Reviewed By **John Brunia**

Accepted By:
Eagle Mountain

Printed Name / Title

Signature / Date

SPECTRA Electrical Services
2519 West Geneva Drive
Tempe, Arizona 85282
p. 480.446.7200
f. 480.446.7300

ATTACHMENT 'A' - CLARIFICATIONS (STANDARD)

PROJECT NAME: **Spruce Wash Watershed Improvements**
PROPOSAL DATE: **9-Sep-24**
PROPOSAL #: **24-0294**
PROPOSAL TYPE: **Lump Sum**

ITEM	Included	Excluded	NOTES
Allowances & Contingencies		X	Unless specifically noted in this Proposal
Bid Bond		X	
Payment & Performance Bond		X	Not included in base bid.
Excess and/or Wrap Insurance		X	
Sales & Use Taxes		X	
Permits and/or associated Fees		X	
Engineered Drawings		X	Also excludes Light pole base structural calculations
Responsibility for design meeting code		X	
Handling of or Disposal of Hazardous Waste		X	Also excludes all fees, packaging & crating
Code Upgrades to existing systems		X	
Warranty or Freight claims		X	For equipment provided by others
Third Party Testing		X	Switchgear Only
Short Circuit and Arc Flash Studies		X	
Spare Parts, Attic Stock		X	
Additional / Relocated fixtures, fire alarm, battery packs, equipment etc requested by the AHJ, GC or Owner		X	
As-Built Drawings for our Work - "redline" type	X		SES will provide "redline" As-Built drawings on a clean set of drawings provided by GC or Owner, specifically for this purpose.
As-Built Drawings for our Work - CAD		X	
Reprographic & CAD file fees of any kind		X	All drawings and copies for construction by GC / Owner
BIM Services		X	
1-Year Warranty - Labor & Material	X		From the date of substantial completion for each respective project component (I.e. Building A, Building B, etc.)
Lighting Fixture Support / Slack Wire		X	To be furnished by Others, PRIOR to SES setting lights in grid, etc. - SES to tie off at corner(s) of light fixtures.
Jobsite Storage		X	In a secure location provided by Others, including exterior placement of storage trailers, containers, etc.
Jobsite Office		X	
Dumpster for disposal of construction debris		X	By Others
Temporary Power & Lighting		X	
Demolition		X	Concealed Items discovered during demolition or during new construction that will impede new work shall immediately be brought to the GC's attention. Spectra to proceed only after a evaluation & determination is made by the engineer or design team on how to proceed.
Painting & Patching		X	
Packaged Items			
Light Fixtures		X	Light fixture types and counts are quoted from the electrical drawings lighting schedule. Any additional fixtures types or schedules not on the electrical drawings are excluded.
Lighting Controls		X	
SES/Gear Package	X		
Disconnects (Loose)	X		Furnished by Spectra Electrical Services
DRY UTILITIES			***Utility Drawings were not provided at bid time. Our proposal is based on site drawings received. Utility excavation and installation will be reviewed and costs associated with any changes to Utility plans will be addressed.***
Power Utility - Design & Fees		X	
Power Utility - Equipment Cost & Install		X	
Power Utility - Primary Conduit(s)		X	
Power Utility - Secondary Conduit(s)		X	
Telco and/or Cox Utility - Design & Fees		X	
Telco and/or Cox Utility - Equip. Cost & Install		X	
Telco and/or Cox Utility - Conduit(s)		X	
Asphalt Cutting / Patchback		X	
Concrete Cutting / Patchback		X	
Trenching & Backfill		X	**No Soils Report Exclusions:** Shoring equipment of any kind. Spectra reserves the right to charge for unknown conditions and/or obstructions.
Rock / Coliche Digging		X	
Native Soil Backfill	X		
Imported Backfill-(Sand, Pea Gravel)		X	
Export of Spoils		X	Spoils to be spread on site
Concrete/Slurry Backfill		X	By others
Concrete Form Work		X	Pads, Pole bases. Also excludes auguring of pole light bases

end

SPECTRA ELECTRICAL SERVICES

SPECTRA Electrical Services
2519 West Geneva Drive
Tempe, Arizona 85282
p. 480.446.7200
f. 480.446.7300

ATTACHMENT 'B' - CLARIFICATIONS (STANDARD)

PROJECT NAME: **Spruce Wash Watershed Improvements**
PROPOSAL DATE: **9-Sep-24**
PROPOSAL #: **24-0294**
PROPOSAL TYPE: **Lump Sum**

ITEM	Included	Excluded	NOTES
Fire Alarm System			Includes deferred submittal of plans for permit from AHJ.
Duct Smoke Detector - Purchase		X	
Duct Smoke Detector - Installation		X	By Mechanical
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
Security System			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
CCTV / MATV / Access Control System			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
Voice / Data / Com System			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
HVAC, Energy Mgt / Bld Automation System			By Mechanical
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Combo-Motor Starters for Mechanical / HVAC		X	Supplied & Installed by Mechanical
HVAC Equipment - Controls Wiring / Conduit		X	
EMERGENCY SYSTEMS			
Generator & Transfer Switch		X	
Generator Fuel		X	By Spectra when applicable for startup only
Generator Fuel Piping, Exhaust & Radiator work		X	By Mechanical when applicable
UPS / Batteries		X	
LIGHTNING PROTECTION			
Lightning Protection (exterior & roof)		X	
Ground Ring (u/g around building in footers)		X	
LABOR & MATERIAL TERMS			
Standard Time Labor	X		This proposal is based upon a 5 day work week, 8 hours per day - Mo thru Fri, 6AM to 2:30PM, with allowance for a 1 hour shift in start time (1 week written notice required).
Premium, Holiday or Shift Time Labor		X	
Standard Material Lead Times		X	**Strong demand, large backlogs & raw materials availability have effected typical delivery times.**
Use of Elevator at no cost on multi-story buildings		X	**Spectra to be compensated if elevator use is not permitted for material loading**
Expedited Manufacture/Delivery of Materials		X	Costs available upon request
Access Panels		X	
Acoustical Putty Pads		X	
Fire Stopping		X	Furnish and install firestopping at Spectra penetrations only. Sleeves installed for other subcontractor use excluded
MC Cable		X	Where allowed by NEC
Free Air Low Voltage Class-2 Cabling		X	
Slab work conduit		X	Proposal based on conduit being installed within or under slab.
Coordination With Trades		X	

SPECTRA Electrical Services
2519 W. Geneva Drive
Tempe, Arizona 85282
(480) 446-7200
fax (480) 446-7300

DATA ENTRY PROGRAMMING FOR BID and COST ANALYSIS - ORIGINAL ESTIMATE - 40 HOUR WW (5x8 Mon thru Fri)

CUSTOMER:	Eagle Mountain	**PROPOSAL DATE:**	23-Aug-24
ADDRESS:	3100 N. Caden Ct	**PROPOSAL TIME:**	3PM
	Flagstaff AZ 86604		
CONTACT:	Marco Spagnulo	**PROPOSAL #:**	24-0294
E-MAIL:	marco@emcaz.com	**REV #:**	Original
PROJECT NAME:	Spruce Wash Watershed Improvements	**PROPOSAL TYPE:**	Lump Sum

I. SCOPE OF WORK

This proposal has been prepared by SES and is submitted in strict confidence, based upon the following bid documents -

E-Sheets: E0.1, E1.1, E2.1, E2.2

Dated: 6/25/2024

Specifications: Per Plans
Dated: 6/25/2024

Engineer: WSP - Randy Cook Jr

Addendum: ***Dated:*** ***Addendum:*** ***Dated:*** ***Addendum:*** ***Dated:*** ***Addendum:*** ***Dated:***

II. CLARIFICATIONS / INCLUSIONS / EXCLUSIONS

a.) This proposal shall remain valid for ***15*** days from the date indicated above.
b.) SES reserves the right to negotiate a fair and equitable contract or subcontract agreement.
c.) Please reference the Attachments 'A', 'B', 'C', etc. for proposal clarifications, inclusions & exclusions.

III. SPECIAL NOTE:

a.) The proposal price for this project has been calculated based on the current prices and availability for the *commodity MATERIALS listed below. However, the market for the materials that are hereafter specified is considered to be **volatile** and sudden price could occur. Spectra Electrical Services, Inc. (hereinafter referred to as SES) agrees to use our best effort to obtain the lowest possible prices increases or lack of availability from available material suppliers, but should there be an increase in excess of 5% in the prices of these specified materials that are purchased after execution of a contract for use in this project, the Owner agrees to pay the cost increase above **5%** to SES Any claim by SES for payment of a cost increase, as provided above, shall require written notice delivered by SES to the Owner / General Contractor stating the increase cost, the material or materials in question and the source of supply supported by invoices or bills of sale.
*Commodity MATERIALS definition is as follows: PVC, Steel, Copper, Aluminum and All Petroleum Based Products. Spectra also reserves the right to negotiate a fair and mutual equitible schedule and contract terms.

b.) We reserve the right to negotiate a fair and mutally equitable subcontract Agreement, including schedule.

IV. BASE BID COST PROPOSAL

COST		$	235,874
P&P Bond (if req'd)		$	-
Non-MRRA -TAX @		$	-
MRRA -TAX @		$	-
TOTAL PROPOSED AMOUNT		**$**	**235,874**

YEAR	EMR
2024	0.99
2023	0.98
2022	0.99

zero injuries
Strength in Numbers!

Thank you,
Spectra Electrical Services, Inc.

Prepared By **David Barndollar**

Reviewed By **John Brunia**

Accepted By:
Eagle Mountain

Printed Name / Title

Signature / Date

SPECTRA Electrical Services
2519 West Geneva Drive
Tempe, Arizona 85282
p. 480.446.7200
f. 480.446.7300

ATTACHMENT 'A' - CLARIFICATIONS (STANDARD)

PROJECT NAME: **Spruce Wash Watershed Improvements**
PROPOSAL DATE: **23-Aug-24**
PROPOSAL #: **24-0294**
PROPOSAL TYPE: **Lump Sum**

ITEM	Included	Excluded	NOTES
Allowances & Contingencies		X	Unless specifically noted in this Proposal
Bid Bond		X	
Payment & Performance Bond		X	Not included in base bid.
Excess and/or Wrap Insurance		X	
Sales & Use Taxes		X	
Permits and/or associated Fees		X	
Engineered Drawings		X	Also excludes Light pole base structural calculations
Responsibility for design meeting code		X	
Handling of or Disposal of Hazardous Waste		X	Also excludes all fees, packaging & crating
Code Upgrades to existing systems		X	
Warranty or Freight claims		X	For equipment provided by others
Third Party Testing		X	Switchgear Only
Short Circuit and Arc Flash Studies		X	
Spare Parts, Attic Stock		X	
Additional / Relocated fixtures, fire alarm, battery packs, equipment etc requested by the AHJ, GC or Owner		X	
As-Built Drawings for our Work - "redline" type	X		SES will provide "redline" As-Built drawings on a clean set of drawings provided by GC or Owner, specifically for this purpose.
As-Built Drawings for our Work - CAD		X	
Reprographic & CAD file fees of any kind		X	All drawings and copies for construction by GC / Owner
BIM Services		X	
1-Year Warranty - Labor & Material	X		From the date of substantial completion for each respective project component (I.e. Building A, Building B, etc.)
Lighting Fixture Support / Slack Wire		X	To be furnished by Others, PRIOR to SES setting lights in grid, etc. - SES to tie off at corner(s) of light fixtures.
Jobsite Storage		X	In a secure location provided by Others, including exterior placement of storage trailers, containers, etc.
Jobsite Office		X	
Dumpster for disposal of construction debris		X	By Others
Temporary Power & Lighting		X	
Demolition		X	Concealed Items discovered during demolition or during new construction that will impede new work shall immediately be brought to the GC's attention. Spectra to proceed only after a evaluation & determination is made by the engineer or design team on how to proceed.
Painting & Patching		X	
Packaged Items			
Light Fixtures		X	Light fixture types and counts are quoted from the electrical drawings lighting schedule. Any additional fixtures types or schedules not on the electrical drawings are excluded.
Lighting Controls		X	
SES/Gear Package	X		14-16 week lead time, including shop drawings. Shop drawings are currently estimated at 3-4 weeks from receipt of order.
DRY UTILITIES			***Utility Drawings were not provided at bid time. Our proposal is based on site drawings received. Utility excavation and installation will be reviewed and costs associated with any changes to Utility plans will be addressed.***
Power Utility - Design & Fees		X	
Power Utility - Equipment Cost & Install		X	
Power Utility - Primary Conduit(s)		X	
Power Utility - Secondary Conduit(s)		X	
Telco and/or Cox Utility - Design & Fees		X	
Telco and/or Cox Utility - Equip. Cost & Install		X	
Telco and/or Cox Utility - Conduit(s)		X	
Asphalt Cutting / Patchback		X	
Concrete Cutting / Patchback		X	
Trenching & Backfill		X	**No Soils Report Exclusions:** Shoring equipment of any kind. Spectra reserves the right to charge for unknown conditions and/or obstructions.
Rock / Coliche Digging		X	
Native Soil Backfill	X		
Imported Backfill-(Sand, Pea Gravel)		X	
Export of Spoils		X	Spoils to be spread on site
Concrete/Slurry Backfill		X	By others
Concrete Form Work		X	Pads, Pole bases. Also excludes auguring of pole light bases

end

SPECTRA Electrical Services
2519 West Geneva Drive
Tempe, Arizona 85282
p. 480.446.7200
f. 480.446.7300

ATTACHMENT 'B' - CLARIFICATIONS (STANDARD)

PROJECT NAME: **Spruce Wash Watershed Improvements**
PROPOSAL DATE: **23-Aug-24**
PROPOSAL #: **24-0294**
PROPOSAL TYPE: **Lump Sum**

ITEM	Included	Excluded	NOTES
Fire Alarm System			Includes deferred submittal of plans for permit from AHJ.
Duct Smoke Detector - Purchase		X	
Duct Smoke Detector - Installation		X	By Mechanical
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
Security System			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
CCTV / MATV / Access Control System			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
Voice / Data / Com System			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
HVAC, Energy Mgt / Bld Automation System			By Mechanical
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Combo-Motor Starters for Mechanical / HVAC		X	Supplied & Installed by Mechanical
HVAC Equipment - Controls Wiring / Conduit		X	
EMERGENCY SYSTEMS			
Generator & Transfer Switch		X	
Generator Fuel		X	By Spectra when applicable for startup only
Generator Fuel Piping, Exhaust & Radiator work		X	By Mechanical when applicable
UPS / Batteries		X	
LIGHTNING PROTECTION			
Lightning Protection (exterior & roof)		X	
Ground Ring (u/g around building in footers)		X	
LABOR & MATERIAL TERMS			
Standard Time Labor	X		This proposal is based upon a 5 day work week, 8 hours per day - Mo thru Fri, 6AM to 2:30PM, with allowance for a 1 hour shift in start time (1 week written notice required).
Premium, Holiday or Shift Time Labor		X	
Standard Material Lead Times		X	**Strong demand, large backlogs & raw materials availability have effected typical delivery times.**
Use of Elevator at no cost on multi-story buildings		X	**Spectra to be compensated if elevator use is not permitted for material loading**
Expedited Manufacture/Delivery of Materials		X	Costs available upon request
Access Panels		X	
Acoustical Putty Pads		X	
Fire Stopping		X	Furnish and install firestopping at Spectra penetrations only. Sleeves installed for other subcontractor use excluded
MC Cable		X	Where allowed by NEC
Free Air Low Voltage Class-2 Cabling		X	
Slab work conduit		X	Proposal based on conduit being installed within or under slab.
Coordination With Trades		X	

SPECTRA Electrical Services
2519 West Geneva Drive
Tempe, Arizona 85282
p. 480.446.7200
f. 480.446.7300

ATTACHMENT 'C' - CLARIFICATIONS (JOB SPECIFIC)

PROJECT NAME: **Spruce Wash Watershed Improvements**
PROPOSAL DATE: **23-Aug-24**
PROPOSAL #: **24-0294**
PROPOSAL TYPE: **Lump Sum**

ITEM	Included	Excluded	NOTES
Underground Conduit and Excavation		X	By Others
Detention Pond Level Sensor Conduit	X		Proposal assumes 100ft from control enclosure using 2C #18 shielded twisted pair wire.
SCADA Progaming		X	By the City of Flagstaff

NOTES ABOUT BUY AMERICA CLAUSE

It was difficult to fully comply with Build America, Buy America (BABA) requirements because many critical electronic components, such as the Modicon PLC and its associated digital and analog modules, are not manufactured in the United States. These components are typically produced by international companies with limited or no U.S.-based manufacturing options. However, we made every effort to source American-made components wherever possible, including selecting a U.S.-manufactured enclosure and transformer for this project, to support domestic production while meeting the customer's specifications. After speaking with our suppliers, they believe that approximately 65% +/- of the specified materials will comply with the BABA. However, this proposal is based upon materials specified by the EE and this type of design is not typically suited for alternates, as there are often times limitations with compatability as designed that preclude the use of alternate components.

Palmerosa Construction, L.L.C
P.O Box 30158
Flagstaff, AZ 86003 US
(928) 699-4592
miketpalmer@gmail.com

Estimate

ADDRESS
Spruce Wash 3100 Caden Ct Flagstaff, AZ 86004

ESTIMATE #	DATE	
1146	03/02/2024	

P.O. NUMBER
Spruce Wash

ACTIVITY	QTY	RATE	AMOUNT
Estimate for Fencing for Spruce Wash job. Price includes material and labor to install fencing as per drawings from SWI job #223098 details 1-3			
4’ section (Detail 1) - Posts = 4"x4"x3/16" with caps 8’ OC mounted to top of wall or concrete - Top and Bottom rail = 3"x3"x1/8" square tube - Middle section = 1/4" woven wire mesh 4" OC secured with 1"’x1"x1/8" angle iron on each side of mesh	340	130.00	44,200.00
6’ section (Detail 2) - Posts = 4"x4"x3/16" with caps 8’ OC mounted in poured concrete post holes - Top, Bottom and Middle rail = 3"x3"x1/8" square tube - Top and Bottom section = 1/4" woven wire mesh 4" OC secured with 1"’x1"x1/8" angle iron on each side of mesh	210	190.00	39,900.00
Gate (Detail 3) - 16’ opening with 2 gates hinged on sides - Material and spacing to match the 6’ fence	1	5,200.00	5,200.00
Excludes: Survey or staking for fence location, Private Blue Stake, Special Inspections			
Page Steel only guarantees material prices for 30 days. Mesh could take up to 5 weeks to get from order date			

TOTAL **$89,300.00**

Accepted By

Accepted Date

Palmerosa Construction, L.L.C
P.O Box 30158
Flagstaff, AZ 86003 US
(928) 699-4592
miketpalmer@gmail.com

Estimate

ADDRESS
Spruce Wash 3100 Caden Ct Flagstaff, AZ 86004

ESTIMATE #	DATE	
1146	02/27/2025	

P.O. NUMBER
Spruce Wash

ACTIVITY	QTY	RATE	AMOUNT
Estimate for Fencing for Spruce Wash job. Price includes material and labor to install fencing as per drawings from SWI job #223098 details 1-3; and to meet Buy American provisions.			
4’ section (Detail 1) - Posts = 4"x4"x3/16" with caps 8’ OC mounted to top of wall or concrete - Top and Bottom rail = 3"x3"x1/8" square tube - Middle section = 1/4" woven wire mesh 4" OC secured with 1"’x1"x1/8" angle iron on each side of mesh	340	172.00	58,480.00
6’ section (Detail 2) - Posts = 4"x4"x3/16" with caps 8’ OC mounted in poured concrete post holes - Top, Bottom and Middle rail = 3"x3"x1/8" square tube - Top and Bottom section = 1/4" woven wire mesh 4" OC secured with 1"’x1"x1/8" angle iron on each side of mesh	210	236.00	49,560.00
Gate (Detail 3) - 16’ opening with 2 gates hinged on sides - Material and spacing to match the 6’ fence	1	6,800.00	6,800.00
Excludes: Survey or staking for fence location, Private Blue Stake, Special Inspections			
Page Steel only guarantees material prices for 30 days. Mesh could take up to 5 weeks to get from order date			

TOTAL **$114,840.00**

Accepted By

Accepted Date

FEDERAL FINANCIAL ASSISTANCE
AWARD OF DOMESTIC GRANT 24-DG-11030000-015
Between The
CITY OF FLAGSTAFF
And The
USDA, FOREST SERVICE
SOUTHWESTERN REGION, COCONINO NATIONAL FOREST

Project Title: The Wedge Detention Basin

Upon execution of this document, an award to the City of Flagstaff, hereinafter referred to as "Flagstaff," in the amount of **$3,500,000**, is made under the authority of the Consolidated Appropriations Act of 2022, P.L. 117-103. The Federal Assistance Listing (formerly Catalog of Federal Domestic Assistance - CFDA) number and name are 10.723, Community Project Funding - 2022 Congressionally Designated Funding. Flagstaff accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated July 3, 2024, and the attached Forest Service provisions, 'Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

This authority requires a match of 1:1, which your organization has agreed to provide as shown in the attached application, financial plan and narrative.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: www.ecfr.gov. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 505-382-9982.

The following administrative provisions apply to this award:

A. LEGAL AUTHORITY. Flagstaff shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.

B. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this award.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Stacey Brechler-Knaggs 211 West Aspen Ave Flagstaff, AZ 86001 Telephone: 928-213-2227 Email: sknaggs@flagstaffaz.gov	Stacey Brechler-Knaggs 211 West Aspen Ave Flagstaff, AZ 86001 Telephone: 928-213-2227 Email: sknaggs@flagstaffaz.gov

Principal Forest Service Contacts:

Forest Service Program Manager Contact	Forest Service Administrative Contact
Amber Dorsch 1824 S. Thompson St Flagstaff, AZ 86001 Telephone: 928-527-3440 Email: amber.dorsch@usda.gov	Sara Comas 201 14th Ave SW Washington, DC 20250 Telephone: 505-382-9982 Email: sara.comas@usda.gov

C. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). Flagstaff shall maintain current organizational information and the original Unique Entity Identifier (UEI) provided for this agreement in the System for Award Management (SAM) until receipt of final payment. This requires annual review and updates, when needed, of organizational information after the initial registration. More frequent review and updates may be required for changes in organizational information or agreement term(s). Any change to the original UEI provided in this agreement will result in termination of this agreement and de-obligation of any remaining funds. For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.

D. ADVANCE & REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. Advance and reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully

expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

The Program Manager reserves the right to request additional information prior to approving a payment.

The invoice must be sent by one of three methods:	Send a copy to:
EMAIL (preferred): SM.FS.asc_ga@usda.gov FAX: 877-687-4894 POSTAL: USDA Forest Service Budget & Finance - Grants and Agreements 4000 Masthead St, NE Albuquerque, NM 87109	Amber Dorsch: amber.dorsch@usda.gov

E. INDIRECT COST RATES. The cooperator will not assess indirect against this award.

F. PRIOR WRITTEN APPROVAL. Flagstaff shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.

G. MODIFICATIONS. Modifications within the scope of this award must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.

H. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature. Pre-award costs are authorized as of 07/01/2024 pursuant to 2 CFR 200.458.

The end date, or expiration date is **06/30/2025**. This instrument may be extended by a properly executed modification. *See Modification Provision above*.

I. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof the parties hereto have executed this award.

S Anderson 8/27/24

FOR GREG CLIFTON, City Manager Date
City of Flagstaff

AARON MAYVILLE, Forest Supervisor Date
U.S. Forest Service, Coconino National Forest

The authority and the format of this award have been reviewed and approved for signature. SARA COMAS Digitally signed by SARA COMAS Date: 2024.07.16 17:42:28 -04'00'

SARA COMAS Date
Forest Service Grants Management Specialist

Approved as to Form:

For
City Attorney

ATTEST:

Stacy Saltzburg
City Clerk

ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS

A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award and Federal law, Flagstaff a may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.

B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to Flagstaff for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by Flagstaff or any third party.

C. NOTICES. Any notice given by the Forest Service or Flagstaff will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the award.

To Flagstaff, at the address shown in the award or such other address designated within the award.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

D. SUBAWARDS. Prior approval is required to issue subawards under this grant. The intent to subaward must be identified in the approved budget and scope of work and approved in the initial award or through subsequent modifications. Approval of each individual subaward is not required, however the cooperator must document that each sub-recipient does NOT have active exclusions in the System for Award Management (sam.gov).

The Cooperator must also ensure that they have evaluated each subrecipient's risk in accordance with 2 CFR 200.332 (b).

Any subrecipient under this award must be notified that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.331 through .333.

All subawards $30,000 or more must be reported at fsrs.gov in compliance with 2 CFR 170. *See Attachment B for full text.*

E. FINANCIAL STATUS REPORTING. A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted quarterly. These reports are due 30 days after the reporting period ending March 31, June 30, September 30 and December 31. The final

SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 120 days from the expiration date of the award. These forms may be found at https://www.grants.gov/web/grants/forms.html.

F. PROGRAM PERFORMANCE REPORTS. The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award.

Flagstaff shall submit quarterly performance reports. These reports are due 30 days after the reporting period ending March 31, June 30, September 30 and December 31. The final performance report shall be submitted either with Flagstaff's final payment request, or separately, but not later than 120 days from the expiration date of the award.

- Additional pertinent information: submit a copy of all reports to SM.FS.R3SPTF@usda.gov.

G. NOTIFICATION. Flagstaff shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

H. CHANGES IN KEY PERSONNEL. Any revision to key personnel identified in this award requires notification of the Forest Service Program Manager by email or letter.

I. USE OF FOREST SERVICE INSIGNIA. In order for Flagstaff to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify Flagstaff when permission is granted.

J. FUNDING EQUIPMENT. Federal funding under this award is not available for reimbursement of Flagstaff's purchase of equipment. Equipment is defined as having a fair market value of $5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

K. PUBLIC NOTICES. It is Forest Service's policy to inform the public as fully as possible of its programs and activities. Flagstaff is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.

Flagstaff may call on Forest Service's Office of Communication for advice regarding public notices. Flagstaff is requested to provide copies of notices or announcements to the Forest Service Program Manager and to Forest Service's Office Communications as far in advance of release as possible.

L. DISPUTES. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution (ADR) procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

Should the parties be unable to resolve the issue of controversy through ADR, then the Signatory Official will make the decision. A written copy of the decision will be provided to the Cooperator.

Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, the Cooperator appeals the decision to the Forest Service's Deputy Chief, State, Private, and Tribal Forestry (SPTF). Any appeal made under this provision shall be in writing and addressed to the Deputy Chief, SPTF, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.

A decision under this provision by the Deputy Chief, SPTF, is final. The final decision by the Deputy Chief, SPTF, does not preclude the Cooperator from pursuing remedies available under the law.

M. AWARD CLOSEOUT. Flagstaff must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

Any unobligated balance of cash advanced to Flagstaff must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.344(d).

If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

N. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.340.

O. DEBARMENT AND SUSPENSION. Flagstaff shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Flagstaff or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion,

debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.

All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.

P. MEMBERS OF CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.

Q. SCIENTIFIC INTEGRITY. USDA is committed to the highest levels of integrity in all of our scientific activities and decision making. This includes to performing, recording and reporting the results of scientific activities with honesty, objectivity, and transparency. All persons performing under this agreement shall adhere to the principles of scientific integrity described in Departmental Regulation (DR) 1074-001.

R. GEOSPATIAL DATA. All data collected will meet the requirements of the Geospatial Data Act of 2018 where applicable. This will always include the documentation of all relevant metadata standards, use of standard data formats; description of quantitative measures of uncertainty and source of uncertainty and sources of uncertainty associated with the data. Additionally, the data must meet specific standards specified elsewhere to ensure the data is useful to support the USDA's mission. The recipient/cooperator agrees to comply with USDA's Department-wide enterprise geospatial data management policy implemented in Departmental Regulation 3465-001 which establishes the USDA policy for defining the strategic direction necessary to optimize the management of the USDA geospatial data and geospatial infrastructure, including all geospatial data created for, by, and enhanced by USDA.

S. PUBLIC ACCESS TO SCHOLARLY PUBLICATIONS AND DIGITAL SCIENTIFIC RESEARCH DATA. The recipient agrees to comply with USDA's Department-wide public access policy implemented in Departmental Regulation 1020-006 which establishes the USDA policy for public access to scholarly publications and digital scientific research data assets. The USDA will make all peer-reviewed, scholarly publications and digital scientific research data assets arising from unclassified scientific research supported wholly or in part by the USDA accessible to the public, to the extent practicable.

T. BUY AMERICA BUILD AMERICA. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

(1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

(3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.
Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

(a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product

(whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered "produced in the United States." Except as specifically provided, only a single standard should be applied to a single construction material.

(1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

(2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planning, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers. When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that:

(1) applying the Buy America Preference would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at USDA Buy America Waivers for Federal Financial Assistance.

Definitions

"Buy America Preference" means the "domestic content procurement preference" set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

"Construction materials" means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

(i) Non-ferrous metals;

(ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);

(iii) Glass (including optic glass);

(iv) Fiber optic cable (including drop cable);

(v) Optical fiber;

(vi) Lumber;

(vii) Engineered wood; and

(viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

"Infrastructure" means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

"Infrastructure project" means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of 2 CFR 184.4.

"Iron or steel products" means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

U. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

   a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients' employees may not:
      (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
      (2) Procure a commercial sex act during the period of time that the award is in effect; or
      (3) Use forced labor in the performance of the award or subawards under the award.

   b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
      (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
   i. Associated with performance under this award; or
   ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ‘‘OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),’’.

2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:
   a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
   b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
      (1) Associated with performance under this award; or
      (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ‘‘OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),’’

3. Provisions applicable to any recipient.
   a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
   b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
      (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
      (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
   c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of this award term:
   a. ‘‘Employee’’ means either:
      (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
      (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
   b. ‘‘Forced labor’’ means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for

labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

c. ‘‘Private entity’’:
   (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
   (2) Includes:
      i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
      ii. A for-profit organization.

d. ‘‘Severe forms of trafficking in persons,’’ ‘‘commercial sex act,’’ and ‘‘coercion’’ have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

V. DRUG-FREE WORKPLACE.

1. Flagstaff agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must
   a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
   b. Specify the actions Flagstaff will take against employees for violating that prohibition; and
   c. Let each employee know that, as a condition of employment under any award, the employee:

      (1) Shall abide by the terms of the statement, and
      (2) Shall notify Flagstaff in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.

2. Flagstaff agree(s) that it will establish an ongoing drug-free awareness program to inform employees about
   a. The dangers of drug abuse in the workplace;
   b. The established policy of maintaining a drug-free workplace;
   c. Any available drug counseling, rehabilitation and employee assistance programs; and
   d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

3. Without the Program Manager’s expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this award, whichever occurs first.

4. Flagstaff agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after Flagstaff learns of the conviction.

5. Within 30 calendar days of learning about an employee's conviction, Flagstaff must either
   a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
   b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

W. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

1. The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
2. The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
4. If the Government determines that the recipient is not in compliance with this award provision, it;
   a. Will prohibit the recipient's use of funds under this award in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
   b. May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

X. ELIGIBLE WORKERS. Flagstaff shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 U.S.C. 1324(a)). Flagstaff shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.

Y. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or agreement records must not be limited, except when such records must be kept confidential and

would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 315(e).

Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

Z. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperators, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

AA. PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM. As a recipient of USDA financial assistance, you will comply with the following:

1. Do not discriminate against applicants for sub-grants on the basis of their religious character.
2. 7 Code of Federal Regulations (CFR) part 16.3(a), Rights of Religious Organizations.
3. Statutory and National policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.

BB. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. The cooperator (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information.

In accordance with 2 CFR 200.216, the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

(1) procure or obtain, extend or renew a contract to procure or obtain;
(2) enter into a contract (or extend or renew a contract) to procure; or
(3) obtain the equipment, services or systems.

ATTACHMENT B: 2 CFR PART 170

Appendix A to Part 170—Award Term

I. Reporting Subawards and Executive Compensation

a. *Reporting of first-tier subawards.*
   1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds $30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
   2. *Where and when to report.*
      i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to *http://www.fsrs.gov.*
      ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
   3. *What to report.* You must report the information about each obligating action that the submission instructions posted at *http://www.fsrs.gov specify.*

b. *Reporting total compensation of recipient executives for non-Federal entities.*
   1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
      i. The total Federal funding authorized to date under this Federal award equals or exceeds $30,000 as defined in 2 CFR 170.320;
      ii. in the preceding fiscal year, you received—
         (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and
         (B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,
      iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)
   2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
      i. As part of your registration profile at *https://www.sam.gov.*
      ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*
   1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most

highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—
   (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,
   (B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
   i. To the recipient.
   ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.,* between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions.*
If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:
   i. Subawards, and
   ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:
1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
2. Non-Federal *entity* means all of the following, as defined in 2 CFR part 25:
   i. A Governmental organization, which is a State, local government, or Indian tribe;
   ii. A foreign public entity;
   iii. A domestic or foreign nonprofit organization; and,
   iv. A domestic or foreign for-profit organization
3. *Executive* means officers, managing partners, or any other employees in management positions.
4. *Subaward:*
   i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
   ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
   iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:
   i. Receives a subaward from you (the recipient) under this award; and
   ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

END OF ATTACHMENT B: 2 CFR PART 170

ATTACHMENT C: WHISTLEBLOWER NOTICE

Whistleblowers perform an important service to USDA and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so. Federal law protects federal employees as well as personal services contractors and employees of Federal contractors, subcontractors, grantees, and subgrantees against reprisal for whistleblowing. USDA bears the responsibility to ensure that nothing in a non-disclosure agreement which a contractor, subcontractor, grantee, or subgrantee requires their employees to sign should be interpreted as limiting their ability to provide information to the Office of Inspector General (OIG).

41 U.S.C. § 4712 requires the head of each executive agency to ensure that its contractors inform their workers in writing of the rights and remedies under the statute. Accordingly, it is illegal for a personal services contractor or an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In this context, these categories of individuals are whistleblowers who disclose information that the individual reasonably believes is evidence of one of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

To be protected under 41 U.S.C. § 4712, the disclosure must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at USDA;
- An otherwise authorized official at USDA or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

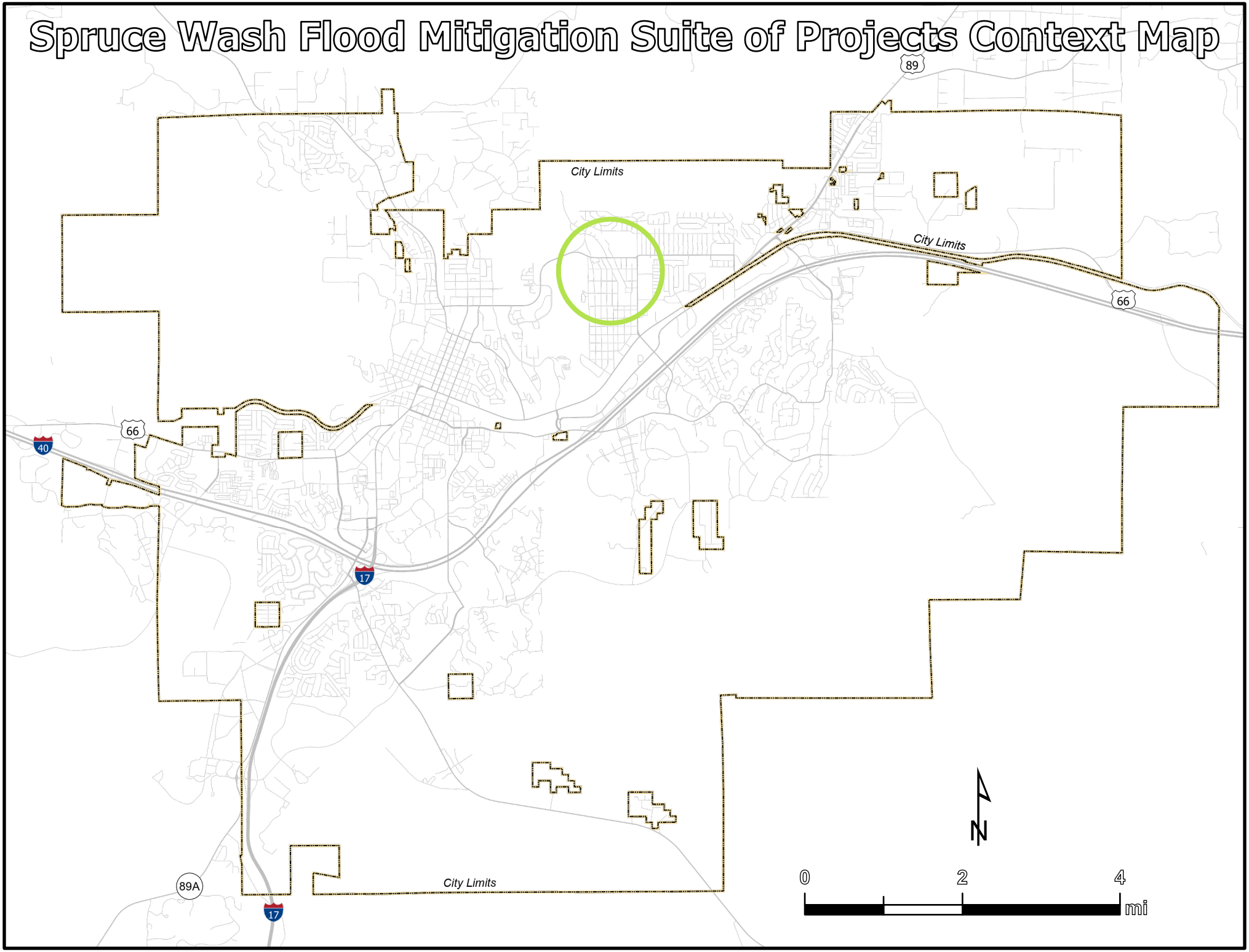
Under 41 U.S.C. § 4712, personal services contractors as well as employees of contractors, subcontractors, grantees, or subgrantees may file a complaint with OIG, who will investigate the matter unless they determine that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. OIG's investigation is then presented to the head of the executive agency who evaluates the facts of the investigation and can order the contractor, subcontractor, grantee, or subgrantee

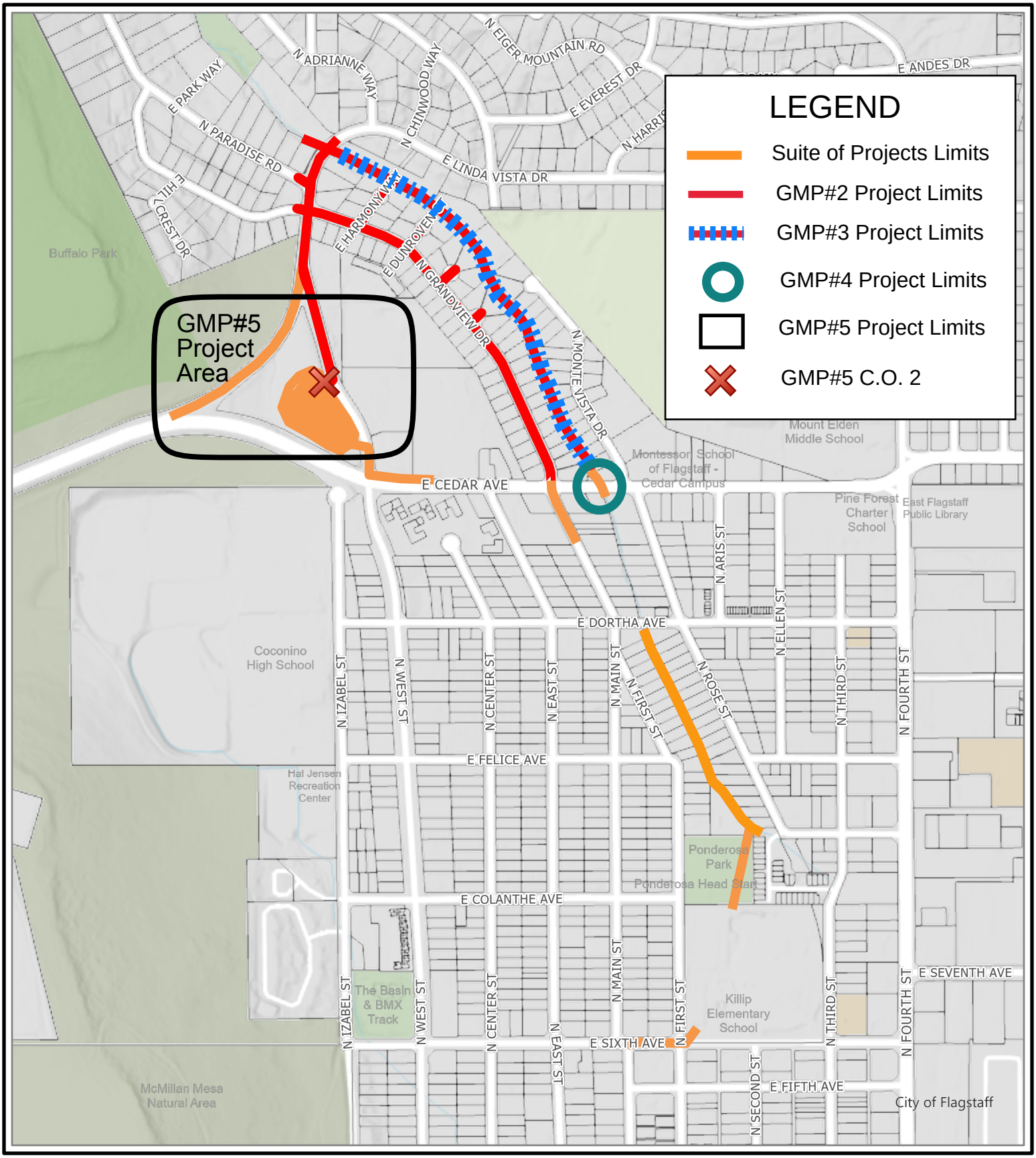
to take remedial action, such as reinstatement or back pay.

Federal Acquisition Regulation (FAR) Subpart 3.903, *Whistleblower Protections for Contractor Employees, Policy*, prohibits government contractors from retaliating against a contract worker for making a protected disclosure related to the contract. FAR Subpart 3.909-1 prohibits the Government from using funds for a contract with an entity that requires its employees or subcontractors to sign internal confidentiality statements prohibiting or restricting disclosures of fraud, waste, or abuse to designated persons. This prohibition does not contravene agreements pertaining to classified information. The regulation also requires contracting officers to insert FAR clause 52.203-17, *Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights,* in all solicitations and contracts that exceed the Simplified Acquisition Threshold as defined in FAR Subpart 3.908. This clause requires notification to contractor employees that they are subject to the whistleblower rights and remedies referenced in 41 U.S.C. § 4712.

In order to make a complaint alleging any of the violations mentioned above, one should complete the OIG Hotline form located at: https://www.usda.gov/oig/hotline. For additional information, they may also visit the WPC's webpage at: https://www.usda.gov/oig/wpc or they may directly contact the WPC at OIGWPC@oig.usda.gov.

Spruce Wash Flood Mitigation Suite of Projects Context Map





Spruce Wash Suite of Projects GMP #5 Vicinity

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City of Flagstaff maps and data are updated on a regular basis from data obtained from various sources. The City of Flagstaff endeavors to provide accurate information, but accuracy is not guaranteed. You are strongly encouraged to obtain any information you need for a business or legal transaction from a surveyor, engineer, title company, or other licensed professional as appropriate. Information is provided subject to the express condition that you knowingly waive any and all claims for damages against the City of Flagstaff relating to use of this information.

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CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Georganna Staskey, Deputy City Clerk

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Approval: Confirming appointees selected by Mayor for the citizen positions on PSPRS.

STAFF RECOMMENDED ACTION:

Confirm appointees selected by Mayor.

Executive Summary:

The Public Safety Personnel Retirement System Board has two citizens elected to this board along with the Mayor and staff from each department. The Authority papers state the Mayor selects the citizen positions which needs to be confirmed by the governing body. The chosen appointees are Kyle DeForest (new Commissioner) and David Boxtaele (current Commissioner).

Financial Impact:

These are voluntary positions, there is no financial impact by selecting the appoinments.

Policy Impact:

N/A

Previous Council Decision or Community Discussion:

N/A

Options and Alternatives to Recommended Action:

Not to select the candidates as chosen and review the applications.

Connection to PBB Priorities and Objectives:

Connection to Regional Plan:

Connection to Carbon Neutrality Plan:

Connection to 10-Year Housing Plan:

Attachments: Authority Papers

Arizona State Legislature

Bill Number Search:

Fiftieth Legislature - Second Regular Session change session | printer friendly version

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38-847. Local boards

A. The administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the university of Arizona, Arizona state university, northern Arizona university, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department of law, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation fire fighting agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one local board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairman, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system, or the head's designee from among the other members of the merit system, if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.
2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairman.
3. For fire districts organized pursuant to section 48-804, the secretary-treasurer as chairman, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the secretary-treasurer, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.

B. On the taking effect of this system for an employer, the appointments and elections of local board members shall take place with one elective and appointive local board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the system. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the board of trustees, the board of trustees may appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two year or four year term. If the board of trustees cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the board of trustees may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Each local board shall meet at least twice a year. Each member of a local board, within ten days after the member's appointment or election, shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.

D. Except as limited by subsection E of this section, a local board shall have such

powers as may be necessary to discharge the following duties:
1. To decide all questions of eligibility and service credits, and determine the amount, manner and time of payment of any benefits under the system.
2. To prescribe procedures to be followed by claimants in filing applications for benefits.
3. To make a determination as to the right of any claimant to a benefit and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Except as otherwise required by law, unless all parties involved in a matter presented to the local board for determination otherwise agree, the local board shall commence a hearing on the matter within ninety days after the date the matter is presented to the local board for determination. If a local board fails to commence a hearing as provided in this paragraph, on a matter presented to the local board for determination, the relief demanded by the party petitioning the local board is deemed granted and approved by the local board. The granting and approval of this relief is considered final and binding unless a timely request for rehearing or appeal is made as provided in this article, unless the board of trustees determines that granting the relief requested would violate the internal revenue code or threaten to impair the system's status as a qualified plan under the internal revenue code. If the board of trustees determines that granting the requested relief would violate the internal revenue code or threaten to impair the system's status as a qualified plan, the board of trustees may refuse to grant the relief by issuing a written determination to the local board and the party petitioning the local board for relief. The decision by the board of trustees is subject to judicial review pursuant to title 12, chapter 7, article 6.
4. To request and receive from the employers and from members such information as is necessary for the proper administration of the system and action on claims for benefits and to forward such information to the board of trustees.
5. To distribute, in such manner as the local board determines to be appropriate, information explaining the system received from the board of trustees.
6. To furnish the employer, the board of trustees and the legislature, on request, with such annual reports with respect to the administration of the system as are reasonable and appropriate.
7. To receive and review the actuarial valuation of the system for its group of members.
8. To receive and review reports of the financial condition and of the receipts and disbursements of the fund from the board of trustees.
9. To appoint medical boards as provided in section 38-859.
10. To sue and be sued to effectuate the duties and responsibilities set forth in this article.
E. A local board shall have no power to add to, subtract from, modify or waive any of the terms of the system, change or add to any benefits provided by the system or waive or fail to apply any requirement of eligibility for membership or benefits under the system. Notwithstanding any limitations periods imposed in this article, including subsection D, paragraph 3 and subsections G and H of this section, if the board of trustees determines a local board decision violates the internal revenue code or threatens to impair the system's status as a qualified plan under the internal revenue code, the local board's decision is not final and binding and the board of trustees may refrain from implementing or complying with the local board decision.
F. A local board, from time to time, shall establish and adopt such rules as it deems necessary or desirable for its administration. All rules and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. If a claim or dispute is presented to a local board for determination but the local board has not yet adopted uniform rules of procedure for adjudication of the claim or dispute, the local board shall adopt and use the model uniform rules of local board procedure that are issued by the board of trustees' fiduciary counsel to adjudicate the claim or dispute.
G. Except as otherwise provided in this article, any action by a majority vote of the members of a local board that is not inconsistent with the provisions of the system and the internal revenue code shall be final, conclusive and binding on all persons affected by it unless a timely application for a rehearing or appeal is filed as provided in this article. No later than twenty days after taking action, the local board shall submit to the board of trustees the minutes from the local board meeting that include the name of the member affected by its decision, a description of the action taken and an explanation of the reasons and all documents submitted to the local board for the action taken, including the reports of a medical board. The board of trustees may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the system's status as a qualified plan under the internal revenue code.
H. A claimant or the board of trustees may apply for a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the system's status as a qualified plan under the internal revenue code, no limitation period for the board of trustees to seek a rehearing of a local board decision applies. An application for a rehearing shall be filed in writing with a member of the local board or its secretary within sixty days after:
1. The applicant-claimant receives notification of the local board's original action by

certified mail, by attending the meeting at which the action is taken or by receiving benefits from the system pursuant to the local board's original action, whichever occurs first.
2. The applicant-board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by certified mail.
I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.
J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.
K. When making a ruling, determination or calculation, the local board shall be entitled to rely on information furnished by the employer, a medical board, the board of trustees, independent legal counsel or the actuary for the system.
L. Each member of a local board is entitled to one vote. A majority is necessary for a decision by the members of a local board at any meeting of the local board.
M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings in compliance with chapter 3, article 3.1 of this title and forward the minutes and all necessary communications to the board of trustees as prescribed by subsection G of this section.
N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer and not the board of trustees or system at such rates and in such amounts as the local board shall approve. Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and owes its duty of loyalty only to the local board in connection with its representation of the local board.
O. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the board of trustees and the actuary.
P. The local board and the individual members of the local board shall be indemnified from the assets of the employer for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

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CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sarah Langley, Public Affairs Director

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Ratification: Letter of support for the Arizona Environmental Infrastructure program

STAFF RECOMMENDED ACTION:

Retroactively approve the letter of support.

Executive Summary:

City staff received a request to voice the City's support for the Arizona Environmental Infrastructure Program (Section 595), which will bring critically needed water infrastructure assistance to Arizona. This request is supported by the City's federal Water and Stormwater Infrastructure legislative priority. The letter will be signed by various League of Arizona Cities and Towns member cities and then shared with federal lawmakers by the League.

Financial Impact:

N/A

Policy Impact:

N/A

Previous Council Decision or Community Discussion:

N/A

Options and Alternatives to Recommended Action:

N/A

Background and History:

N/A

Connection to PBB Priorities and Objectives:

The letter is in alignment with the Sustainable & Innovative Infrastructure Key Community Priority.

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: 2025 Letter of support
2024 Example

April 2, 2025

The Honorable Greg Stanton
207 Cannon House Office Building
Washington, DC 20515

Dear Congressman Stanton:

As members of the League of Arizona Cities and Towns, we are writing to express our strong support for the Arizona Environmental Infrastructure program (Section 595), which will bring critically needed water infrastructure assistance to Arizona. We applaud you for introducing and shepherding this important provision into law, and we look forward to working with you to see additional funds allocated to the program in fiscal year 2026.

As you know, the American Society of Civil Engineers (ASCE) has graded Arizona's drinking water and wastewater systems as C- and C respectively. According to the ASCE, over the next 20 years, Arizona will have $9.13 billion in drinking water and $6.77 billion – more than $15 billion – in wastewater infrastructure needs. To help address these infrastructure challenges, additional federal investments are needed, particularly in small, rural, and tribal communities that lack the financial resources to do the necessary repairs and replacements.

To date, more than two dozen communities, counties, tribal nations, and irrigation districts have submitted requests to the Arizona program totaling more than $250 million to support a wide variety of water infrastructure projects, several of which will help mitigate the impacts of the ongoing drought in the Colorado River Basin.

As you continue to work with your colleagues and the House Appropriations Committee on your fiscal year 2026 funding priorities, we urge you to ensure that Arizona receives its fair share of funding for the Arizona Environmental Infrastructure program so we can continue to address the vast needs across the state.

Thanks for your efforts to assist Arizona's cities and towns. We stand ready to work with you to pursue this worthwhile and needed funding.

Sincerely,

League of Arizona Cities AND Towns
1820 W. Washington • Phoenix, AZ 85007 • Phone: (602) 258-5786 • Fax: (602) 253-3874
Email: league@azleague.org · Web site: www.azleague.org

April 19, 2024

The Honorable Greg Stanton
207 Cannon House Office Building
Washington, DC 20515

Dear Congressman Stanton:

As members of the Arizona League of Cities and Towns, we are writing to express our strong support for the Arizona Environmental Infrastructure program (Section 595), which will bring critically needed water infrastructure assistance to Arizona. We applaud you for introducing and shepherding this important provision into law, and we look forward to working with you to see additional funds allocated to the program in fiscal year 2025.

As you know, the American Society of Civil Engineers (ASCE) has graded Arizona's drinking water and wastewater systems as C- and C respectively. According to the ASCE, over the next 20 years, Arizona will have $9.13 billion in drinking water and $6.77 billion – more than $15 billion – in wastewater infrastructure needs. To help address these infrastructure challenges, additional federal investments are needed, particularly in small, rural, and tribal communities that lack the financial resources to do the necessary repairs and replacements.

To date, more than two dozen communities, counties, and tribal nations have submitted requests to the Arizona program totaling more than $180 million to support a wide variety of water infrastructure projects, several of which will help mitigate the impacts of the ongoing drought in the Colorado River Basin.

As you continue to work with your colleagues and the House Appropriations Committee on your fiscal year 2025 funding priorities, we urge you to ensure that Arizona receives its fair share of funding for the Arizona Environmental Infrastructure program so we can continue to address the vast needs across the state.

Thanks for your efforts to assist Arizona's cities and towns. We stand ready to work with you to pursue this worthwhile and needed funding.
Sincerely,

Chip Wilson
Mayor of Apache Junction

Kenneth Weise
Mayor of Avondale

Ken Budge
Mayor of Bisbee

Eric Orsborn
Mayor of Buckeye

Steven D'Amico
Mayor of Bullhead City

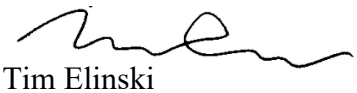
Craig McFarland
Mayor of Casa Grande

Robert Morris
Mayor of Cave Creek

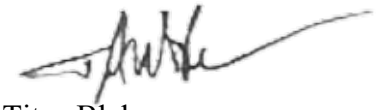
Kevin Hartke
Mayor of Chandler

Laura Dorrell
Mayor of Clifton

Howard Ream
Mayor of Colorado City

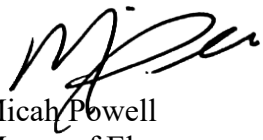


Tim Elinski
Mayor of Cottonwood

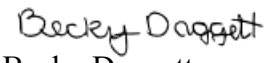


Titus Blake
Mayor of Duncan

Alexis Hermosillo
Mayor of El Mirage



Micah Powell
Mayor of Eloy

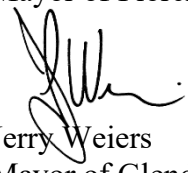


Becky Daggett
Mayor of Flagstaff

Tara Walter
Mayor of Florence

Ginny Dickey
Mayor of Fountain Hills

Brigette Peterson
Mayor of Gilbert

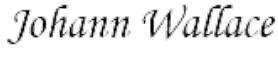


Jerry Weiers
Mayor of Glendale

Al Gameros
Mayor of Globe

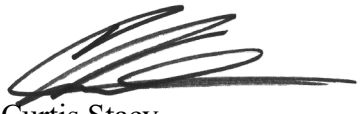
Joe Pizzillo
Mayor of Goodyear

Valerie Molina
Mayor of Guadalupe

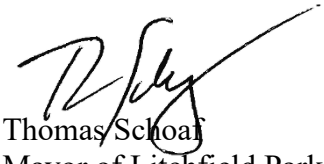


Johann Wallace
Mayor of Huachuca City

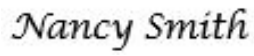
Christina Barber
Mayor of Jerome



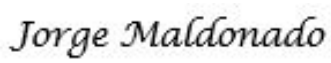
Curtis Stacy
Mayor of Kearny



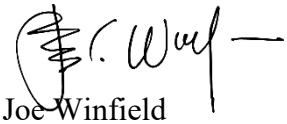
Thomas Schoaf
Mayor of Litchfield Park



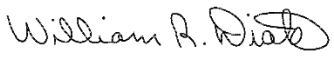
Nancy Smith
Mayor of Maricopa



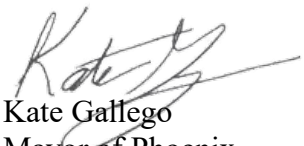
Jorge Maldonado
Mayor of Nogales



Joe Winfield
Mayor of Oro Valley



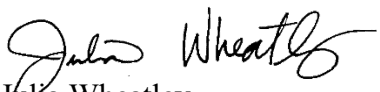
William Diak
Mayor of Page



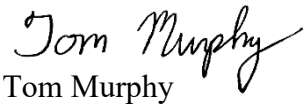
Kate Gallego
Mayor of Phoenix

Kell Palguta
Mayor of Prescott Valley

Norm Simpson
Mayor of Quartzsite



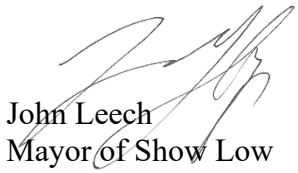
Julia Wheatley
Mayor of Queen Creek



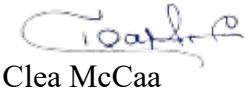
Tom Murphy
Mayor of Sahuarita

Nieves Riedel
Mayor of San Luis

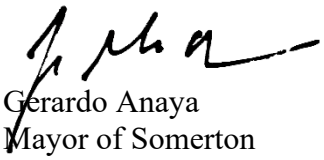
David Ortega
Mayor of Scottsdale



John Leech
Mayor of Show Low



Clea McCaa
Mayor of Sierra Vista

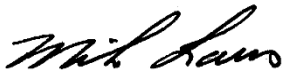


Gerardo Anaya
Mayor of Somerton

Mila Besich
Mayor of Superior

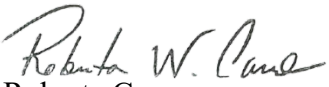
Corey Woods
Mayor of Tempe

Dustin Escapule
Mayor of Tombstone



Mike Laws
Mayor of Willcox

Don Dent
Mayor of Williams



Roberta Cano
Mayor of Winslow

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Erin Young, Water Resources Manager

Co-Submitter: Lee Williams

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Approval of Contract: Joint Funding Agreement Renewal with the United States Geological Survey for a streamflow gage at Newman Canyon in the amount of $148,910 for the period of May 1, 2025 to September 30, 2029.

STAFF RECOMMENDED ACTION:

1. Approve the Joint Funding Agreement with the U.S. Geological Survey (USGS) for a streamflow gage at Newman Canyon in the amount of $148,910 for the period of May 1, 2025 to September 30, 2029; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Staff recommends Council approve this Joint Funding Agreement with the USGS to continue collecting streamflow and turbidity data in Newman Canyon, the largest tributary of Upper Lake Mary. The data collected by the USGS provides information that is essential for forecasting long-term water supply reliability for our customers. Partner funds to offset the City's commitment have been received in the past and will continue to be pursued.

Financial Impact:

Project Name: Newman Canyon Surface-Water Gaging Network and Collection of Hydrologic Data
Cost: FY2024-25 = $27,427.50.
Account Number Budgeted: 202-08-304-1061-0-4206
FY Budgeted Amount: $34,000 annually
Grant Funded: $0
Funding Source: Water Services Drinking Water Fund

Policy Impact:

This project supports Water Services' ability to perform Water Policy B1: Maximizing the use of renewable water supplies is an important water management tool to minimize the long-term impacts of overdrafting a community's groundwater resources.

Previous Council Decision or Community Discussion:

Yes. The City Council approved funding of the initial multi-year Joint Funding Agreement with the USGS on 7/15/2014 and renewed another multi-year contract on 7/7/2020, which included the addition of streamflow sediment data collection. The City Council also authorized a $19,000 transfer from a joint account with the National Park Service Foundation on June 16, 2020, to use for this project. The National Park Service Foundation account is jointly managed by the National Park Service, U.S. Forest Service, and the City.

Options and Alternatives to Recommended Action:

1. Renew the multi-year Joint Funding Agreement with the USGS where the total cost for the period from May 1, 2025 to September 30, 2029 is $148,910; or
2. Elect not to renew the Joint Funding Agreement. This would limit the data available to what has been collected and available on the USGS website to the date range October 1, 2014 through September 30, 2024. Not renewing the Joint Funding Agreement would limit the research conducted by a number of agencies and students, including researchers at Northern Arizona University, Arizona State University, Salt River Project, and the public. The City of Flagstaff benefits from the science derived from the data provided by the USGS; or
3. The City Council could also elect to limit the scope of work to only the collection of the streamflow data, or the turbidity data.

Background and History:
This streamflow gage was installed in 2014 with funding from the City of Flagstaff, the Flagstaff Watershed Protection Project, and the Lake Mary-Walnut Canyon Technical Advisory Committee National Park Service Foundation account, with contributing dollars from the USGS. Data from the streamflow gage informs staff about the frequency and timing of flows that fill Upper Lake Mary, which is especially informative when learning about the watershed's response to climate and forest treatments. This information is also important to a vast number of stakeholders with interests in the Upper Lake Mary watershed. The gage collects rainfall and streamflow data in near real-time, and is available on the USGS website at https://waterdata.usgs.gov/usa/nwis/uv?09400815. A turbidity sensor and sediment analysis services were added to the program in 2019.

This is a federal-fiscal-year agreement. The $27,427.50 is the cost to the City in FY25 (July 1, 2024-June 30, 2025 vs. the cost in the agreement of $26,100 based on October 1, 2024 - September 30, 2025). The total cost of the Joint Funding Agreement Renewal with the USGS is $148,910 for the period of May 1, 2025 to September 30, 2029.

Connection to PBB Priorities and Objectives:
Sustainable and Innovative Infrastructure

- Deliver outstanding services to residents through a healthy, well-maintained infrastructure system
- Utilize existing long-range plans that identify the community's future infrastructure needs and all associated costs

Environmental Stewardship

- Promote, protect, and enhance a healthy, sustainable environment and its natural resources
- Strengthen Flagstaff's resilience to climate change impacts on built, natural, economic, health, and social systems

Connection to Regional Plan:
Goal E&C.3. Strengthen community and natural environment resiliency through climate adaptation efforts.

- Policy E&C.3.3. Invest in forest health and watershed protection measures.
- Policy E&C.3.4. Increase the region's preparedness for extreme climate events.

Goal E&C.4. Integrate available science into policies governing the use and conservation of Flagstaff 's natural resources.

- Policy E&C.4.1.Assess vulnerabilities and risks of Flagstaff's natural resources.
- Policy E&C.4.2. Develop water use policies that attempt to integrate current best projections of climate change effects on the Colorado Plateau's water resources and emphasize conservation.

Goal WR.1. Maintain a sustainable water budget incorporating regional hydrology, ecosystem needs, and social and economic well-being.

- Policy WR.1.2. Seek regional opportunities to partner with resource land managers and adjacent landowners to improve water yield and hydrologic processes.

Connection to Carbon Neutrality Plan:

Community Resilience

- CR-1 Ensure all mitigation actions improve Flagstaff's ability to adapt to the future.

Water Security

- WS-1 Improve ecosystem management for protection of water resources.

Healthy Forests and Open Spaces

- HF-1 Protect existing forests, resources, and meaningful open spaces.
- HF-2 Restore and maintain the natural fire-adapted structure and pattern of the forests of the greater Flagstaff region through collaboration with partners.

Connection to 10-Year Housing Plan:

None

Connection to Division Specific Plan:

Water Resource Management

- Policy B1.1 The City should maximize the use and delivery of local renewable water supplies that are available in any given year.
- Strategy B1.2b The temporal aspect of the water supply for redundancy. For example, will the redundant water supply be available for a long time (i.e. groundwater) or for a shorter time frame (e.g. surface water in Lake Mary). When considering production infrastructure (i.e. wells), the redundancy should be available permanently.

Attachments: JFA

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Arizona Water Science Center
520 North Park
Tucson, AZ 85719

April 11, 2025

Ms. Erin Young
Water Resource Manager
City of Flagstaff
2323 Walgreens St. Suite 1
Flagstaff, AZ 86004

Dear Ms. Young:

Enclosed is our standard joint-funding agreement 25ZFJFA002200 between the U.S. Geological Survey Arizona Water Science Center and City of Flagstaff for negotiated deliverables (see attached), during the period May 1, 2025 through September 30, 2029 in the amount of $148,910 from your agency. U.S. Geological Survey contributions for this agreement are $65,000 for a combined total of $213,910. Please sign and return one fully-executed original to Natalie Valenzuela at nvalenzuela@usgs.gov or mail to the address above.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement by **May 9, 2025**. If, for any reason, the agreement cannot be signed and returned by the date shown above, please contact Kurt Schonauer at (928) 556-7223 or email schonaue@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed quarterly via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Natalie Valenzuela at phone number (520) 670-3300 or nvalenzuela@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

Jamie P Macy
Acting Director, AZWSC

Enclosure
25ZFJFA002200

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000790
Agreement #: 25ZFJFA002200
Project #:
TIN #: 86-6000244

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of May 1, 2025, by the U.S. GEOLOGICAL SURVEY, Arizona Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of Flagstaff party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation for negotiated deliverables (see attached), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $65,000 by the party of the first part during the period May 1, 2025 to September 30, 2029

(b) $148,910 by the party of the second part during the period May 1, 2025 to September 30, 2029

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of: $0

Description of the USGS regional/national program: n/a

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www.usgs.gov/office-of-science-quality-and-integrity/fundamental-science-practices).

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000000790
Agreement #: 25ZFJFA002200
Project #:
TIN #: 86-6000244

9. Billing for this agreement will be rendered **quarterly**. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name:	Kurt Schonauer Supervisory Hydrologist
Address:	2255 North Gemini Drive Room 343 Flagstaff, AZ 86001
Telephone:	(928) 556-7223
Fax:	(928) 556-7112
Email:	schonaue@usgs.gov

Customer Technical Point of Contact

Name:	Erin Young Water Resource Manager
Address:	2323 Walgreens St. Suite 1 Flagstaff, AZ 86004
Telephone:	(928) 213-2405
Fax:	(n/a)
Email:	eyoung@flagstaffaz.gov

USGS Billing Point of Contact

Name:	Natalie Valenzuela Budget Analyst
Address:	520 N. Park Ave. Ste. 221 Tucson, AZ 85719
Telephone:	(520) 670-3300
Fax:	(520) 670-5592
Email:	nvalenzuela@usgs.gov

Customer Billing Point of Contact

Name:	Stacy Brechler-Knaggs Grants & Contracts Mgr.
Address:	211 W. Aspen Ave. Flagstaff, AZ 86001
Telephone:	(928) 213-2227
Fax:	(n/a)
Email:	Sknaggs@flagstaffaz.gov

U.S. Geological Survey
United States
Department of Interior

Signature

By_____
Name: Jamie P Macy
Title: Acting Director, AZWSC

City of Flagstaff

Signatures

By_____ **Date:** _____
Name:
Title:

Scope of Work for the City of Flagstaff and the U.S. Geological Survey Cooperative Program

Surface-Water Gaging Network and Collection of Hydrologic Data

Work Plan and Budget
Fiscal Years 2025-2029

A. Purpose

This Scope of Work describes operation and maintenance of the streamflow gage and automated suspended sediment sampler, record analysis of suspended sediment, and provision of turbidity data in Newman Canyon above Upper Lake Mary. If all aspects are funded, the gaging station can be used to document short and long-term changes in streamflow, flood frequency, and changes in turbidity and suspended sediment concentration and loads.

B. Background

Upper Lake Mary serves as an important water source for the City of Flagstaff. To monitor and understand the volume, timing and quality of surface-water inflow into the lake from surrounding forested areas, the USGS, in cooperation with the City of Flagstaff, will continue to operate a gaging station in Newman Canyon. The gaging station will collect rainfall, and streamflow data continuously at 15-minute intervals and transmit the data to the USGS National Water Information System (NWIS). The gaging station will also collect intermittent suspended sediment samples using an automatic pump sampler, and *in situ* samples when technicians are present. Turbidity data will also be collected on a 15-minute interval and provided to the City of Flagstaff biannually.

C. Description of Work and Budget

By means of this Agreement, the City of Flagstaff is providing funds to the USGS Arizona Water Science Center (AzWSC) to help support the operation, and maintenance of the streamflow gage. The gage covered is Newman Canyon above Upper Lake Mary (station number 09400815). Stage data collected from the gage will be used to calculate streamflow discharge. Visits to the gage and discharge measurements will occur at least six times annually. Discharge computations will be produced by the USGS AzWSC and made available on the National Water Information System web page. Suspended sediment samples will be collected and sent the Cascades Volcano Observatory for analysis. After analysis, a suspended sediment concentration record will be calculated annually providing concentration and load data for all days of flow. Frequency of sample collection and total samples collected will be determined based on requirements for record analysis. A turbidity sensor will log data at the site. The turbidity sensor and any spare parts or sensors will be provided by the City of Flagstaff, but will be calibrated annually by the AzWSC. Biannual communication with the City of Flagstaff and USGS will take place to discuss operations for the next water year and winter operations (September), and to

discuss the record analysis for sediment (April). In addition, email communication will take place with the City of Flagstaff in regard to changes to equipment. Costs for the site are listed below under the "Work Tasks" table for fiscal year 2025 through 2029. If it is determined that adjustments need to be made those can be made at the beginning of each year after an agreement by both parties.

Work Tasks **Costs**

		Operation and maintenance of streamflow gage and rain gage	Operation and maintenance of automatic pump sampler	Analysis of annual sediment	Annual turbidity sensor calibration and data transfer	**Total**
2025	City of Flagstaff Cost	$11,210	$5,480	$7,060	$2,350	**$26,100**
	USGS Contribution	$8,800	$4,200	-----	-----	**$13,000**
2026	City of Flagstaff Cost	$12,110	$5,920	$7,380	$2,460	**$27,870**
	USGS Contribution	$8,800	$4,200	-----	-----	**$13,000**
2027	City of Flagstaff Cost	$13,050	$6,370	$7,710	$2,570	**$29,700**
	USGS Contribution	$8,800	$4,200	-----	-----	**$13,000**
2028	City of Flagstaff Cost	$14,030	$6,850	$8,060	$2,680	**$31,620**
	USGS Contribution	$8,800	$4,200	-----	-----	**$13,000**
2029	City of Flagstaff Cost	$15,060	$7,340	$8,420	$2,800	**$33,620**
	USGS Contribution	$8,800	$4,200	-----	-----	**$13,000**

*Suspended sediment concentration is the only analyte that will be measured.

Total Agreement for 2025-2029

City of Flagstaff	$148,910
USGS	$65,000
TOTAL	$213,910

Tasks associated with a continuous-record, real-time USGS streamflow gage

Field

1) 6 routine trips to the site.
2) Additional trips may occur when necessary:
    - During high-flow events to measure discharge or check DCP performance.
    - If equipment failure occurs when reviewing transmissions and NWIS at the office. If gage repairs cannot be completed in one trip a back up sensor will be deployed to minimize lost data.
    - Verification of elevation change relating to equipment movement (levels).
    - If changes to the control affecting the stage-discharge relationship are suspected.
3) Equipment maintenance:
    - Data-collection platform check.
    - Power system check.
    - Orifice line cleaned if required.
4) Discharge measurement made. Check measurements when needed.
5) Control structure maintenance – debris removal.
6) Measuring section maintenance.
7) Point of zero flow measurement.
8) Photo documentation of flow.
9) Vehicle costs.
10) Travel costs.
11) Routine gage maintenance, ie. painting, gage removal, vegetation removal…

Office

1) Discharge measurement notes checked.
2) Provisional record of discharge computed to current.
3) Checking of provisional discharge record.
4) Review of quarterly and final discharge record and the preparation of station manuscripts.
5) Triannual technical review of surface-water data program.
6) Entering and updating of descriptions, analysis, levels, and manuscripts in SIMS.
7) NWIS posting of provisional and finalized data (gage height, discharge, other parameters measured at the site such as precipitation).
8) Web site maintenance.
9) Field equipment maintenance.
10) Complete pages for annual web report.

Equipment

1) Bench testing of Data Collection Platforms.
2) Bench testing of other equipment – transducers, radar units, sonar, ect.

3) Equipment replacement due to failure that can be caused by electrical malfunction, aging, vandalism, or upgrading to newest technology.
4) Purchasing of measuring equipment including:
    - Wading rods.
    - Acoustic doppler meters
    - Acoustic doppler current profilers
    - Cup meters (AA and Pygmy)
    - Trucks
    - Safety equipment.
    - Cell phones and satellite phones for remote areas.
    - Data collection platforms and satellite uplink/downlink communications.

Tasks associated with automatic suspended sediment sampler

Field

1) Check ISCO program sampling report.
   Use ISCO Field Guide: an.data\Sediment Collection Information\Sediment Sampler Manuals and Docs
    - Record bottle number, date and time on form (electronic or hard copy).
    - Collect bottles, secure lids, tape lids, and number bottle or label.
    - If bottle did not fill notate which bottle number on form.
2) Ensure ISCO orifice and liquid level actuator are clear and clean.
3) Clear the orifice line with clean water.
4) If there are any problems with the ISCO make changes to program, test system to ensure functionality, record changes on XXXXXXXX_ISCO_program_parameters form in gage house folder.
5) Restock empty bottles at site (ISCO bottles, 1 litter and 3 litter collection bottles).
6) Bring all samples back to office.
7) Make seasonal adjustments. In the summer (April) lower orifice and change gage height threshold to collect samples during lower flow. In the winter (October) set orifice and threshold to begin sampling at higher flows.
8) Ensure sampler is functional prior to departure and ready for next event.
9) Visits may occur outside of routine visits to collect samples and ensure ISCO has capacity for future events.

Office

1) Fill out sediment tracking Excel spreadsheet for water year (located in: an.data\XXXXXXXX\WY20XX\Sediment\XXXXXXXX ISCO sample data 20XX).
2) Record any changes to ISCO program on form in: an.data\XXXXXXXX\WY20XX\Sediment\XXXXXXXX_ISCO_program_parameters.
3) If it has been determined not to send in select samples record which sample and why on tracking Spreadsheet.*
4) Log samples into QW Data Transfer System (QWDX). Save a copy of the SLAR in an.data\XXXXXXXX\WY20XX\Sediment\09XXXXXX_SLAR_DATE (of SLAR).
5) Ship samples promptly.
6) Follow up to make sure samples are loaded into database within 3 months – if not follow up with Cascades Volcano Observatory (CVO).

*Reasons for not sending in a sample:

- Sample quality has been compromised (i.e. cracked bottle, spilled sample, volume not consistent with other samples or sampling volume setup, other).
- ISCO malfunction.
- Gage height surging near liquid level actuator resulting in multiple samples with unnecessary frequency. Samples should be evaluated based on hydrograph to identify if they would be useful, if so then send into lab.

Tasks associated with a continuous sediment record

This is in addition to the tasks associated with the automatic suspended sediment sampler.

Field

1) Collect Equal Width Increment (EWI) samples when flow is present using a DH-81 sampler. The EWI needs to be completed at a cross section with relatively uniform depth and water velocity. All EWI samples must be collected within the isokinetic range of the sampler because EWI samples are discharge-weighted samples.
2) The EWI cannot be used at cross sections at which all or large parts of the sampling cross section have velocities of less than about 1.5ft/s.
3) Reference the USGS National Field Manual for collection techniques: https://water.usgs.gov/owq/FieldManual/
4) Use of the DH-81 sampler using the Equal-Width-Increment (EWI) method requires the user to maintain a consistent transit rate in every vertical in the stream cross-section. The user should determine the mean stream velocity and the

deepest sampling depth in the cross-section. Determine the transit rate for the container and nozzle being used based on the velocity and depth information

5) The sampler should be held away from the body and as far upstream as possible. The wading rod should be held vertically with the sampler nozzle horizontal and pointing upstream. Begin the transit with the sampler above the surface of the stream using the predetermined transit rate. Maintain the transit rate until the sampler container touches bottom, then immediately reverse the direction of the transit and maintain the transit rate until the sampler clears the surface. Care should be taken when touching the stream bottom so as not to disturb loose sediment and bias the sample. Once the sampler clears the surface, the user should be careful not to tilt the sampler forward so that the nozzle tilts down. If the container is nearly full, water could run out of the container back through the nozzle and bias the sample.
6) Upon completion of sampling with a particular container, remove it by firmly holding the cap with one hand and removing the container with the other hand.
7) Cap and label the container. Each sample container label should contain adequate information. For sediment sampling, the following information should be included:
    - Name of stream
    - Location of cross-section
    - Location of vertical
    - Stream depth covered by sample
    - Stage of stream
    - Date
    - Time
    - Identification of personnel
    - Sampling time

Office

1) Processing and Analysis of Sediment Data
    - Data processing of periodic measurements consists of four steps: tabulation, evaluation, editing, and verification.
2) Compilation of Data
    - Analyses are performed on samples by the Cascades Volcano Observatory.
3) Analysis of Data
    - Sediment data and records are compiled by using procedures described in TWRI Computation of Fluvial Sediment Discharge (Porterfield, 1972). Computations are made by using the Graphical Constituent Loading Analysis System (GCLAS).
    - All electronic files used in the computation of the sediment record should be placed in the appropriate folder for the year and the station in the sediment records folder on the WSC data documents file server.
    - The manuscript for the annual data report must be completed.

- The sediment-station analysis should be started at the beginning of the computation processes and added to during the whole process of computing and analyzing the sediment record.

4) Sediment Station Analysis
   - A sediment-station analysis is written for sediment station each water year. The sediment station analysis is a summary of the sediment activities at the station for a given year. The analysis describes the coverage of sampling, the types of samples and sampling, changes that might affect sediment transport or the record, and the methods and reasoning used to compute the record. Information included in the sediment-station analysis is presented in a thorough manner so that the checker and the reviewer can determine from the analysis the adequacy of the activities in defining the record and in accomplishing the objectives defined for the station.

     Elements included in each sediment-station analysis are as follows:

     - sampling program: establishment and history
     - equipment
     - sediment samples: number of each type of samples collected
     - water discharge record
     - sediment load computations
     - analysis of daily point samples; if a sample was not used then an explanation is needed
     - analysis of cross-section samples; if a sample was not used then an explanation is needed
     - cross-section coefficients
     - an explanation of how well the sample cross-sections relate to pump samples
     - estimated concentration and load
     - remarks

5) Quality-Assurance Review of Sediment Records
   - All sediment records computed will have at least one review before they are approved for publication. After the computation of the sediment record is completed, personnel will set the record to “analyzed” in the Records Management System (RMS). Personnel familiar with sediment-record computation will check electronic data files and GCLAS to insure that the computations and analysis of the record are complete and are hydrologically correct. After the approver has set the record as “approved” in RMS, the record will be provided to the office supervisor.

Porterfield, G., 1972, Computation of fluvial sediment discharge: U.S. Geological Survey Techniques of Water-Resources Investigations, book 3, chap. C3, 66p.

Tasks associated with a continuous turbidity sensor

Field

- On a quarterly basis download turbidity data from the site and bring back to the field.
- Annual calibration of the turbidity sensor by AzWSC will be completed with the costs of the standards being covered by the USGS.
- Any replacement parts or if the sensor is damaged beyond repair will be covered by the City of Flagstaff.

Office

- Compile data and email to City of Flagstaff quarterly.
- Store data in an.data for the specific water year.

Tasks associated with a precipitation gage

Field

1) The sensor is calibrated annually and three additional inspections are required at different times of the year. The purpose of the additional inspections is to identify that the sensor is logging to the datalogger, that the funnel is neither clogged nor affected by debris, and that the area above the sensor is clear of vegetation.

Office

1) Data acquired from the precipitation sensor are considered temporary and will be removed from public accessibility after a 120 day display period. This temporary data will not be published nor will they be distributed to anyone outside of the USGS after the 120 day display period.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Jennifer Caputo, Human Resources Manager

Co-Submitter: Cindy Perger

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Approval of Amendment to Contract: Approve the Second Amendment to the Cooperative Purchase Contract with GovernmentJobs.com, DBA NEOGOV (NEOGOV), in the amount of $102,869.72.

STAFF RECOMMENDED ACTION:

1. Approve the Second Amendment to the Cooperative Purchase Contract with NEOGOV, in the amount of $102,869.72; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

On April 16, 2021, the City entered into a three-year Cooperative Purchase Contract (April 2021-April 2024) with NEOGOV in the amount of $236,124.41 to obtain licenses for three software modules utilized by the Human Resources Division for recruiting, employee performance evaluations, and training ("Original Licenses"). The First Amendment added additional HR New Hire On-Boarding Services for a separate three-year term in the amount of $128,932.80. The Second Amendment renews the Original Licenses for an additional one-year term (April 2025-April 2026) in the amount of $102,869.72, and memorializes the prior one-year renewal of the Original Licenses (April 2024-2025) in the amount of $87,736.87, which was not documented as an amendment to the Initial Contract. The total contract price for the services provided by NEOGOV over a five-year term will be an amount not to exceed $555,663.80.

Financial Impact:

The cost of an additional one-year term for the Original Licenses will total $102,869.72. Funding is budgeted within the Human Resource and Risk Management Division in account number 001-01-012-0020-1-4343

Policy Impact:

This request does not impact City policies.

Connection to PBB, Carbon Neutrality Plan, 10-Year Housing Plan & Regional Plan:
Priority Based Budget Key Community Priorities and Objectives:

- High Performing Governance:
  - Serve the public by providing high quality customer service,
  - Implement and communicate innovative and efficient local government programs, new ideas and best practices,
  - Be an employer of choice through inclusive recruitment and by providing employees with the necessary tools, training, support, and compensation.

Has There Been Previous Council Decision on This:

Yes. The Initial Contract with NEOGOV was approved by the City Council in April 2021. The First Amendment was approved by the City Council in December 2023.

Options and Alternatives:

1. Approve the Second Amendment as presented.
2. Do not approve the Second Amendment.

Background and History:
The Pascua Yaqui Tribe conducted a competitive and open procurement process that resulted in a NEOGOV Online Services Agreement with NEOGOV. On April 16, 2021, the City entered into a Cooperative Purchase Contract with NEOGOV based on the Pascua Yaqui Tribe solicitation. This Second Amendment also relies upon the Cooperative Purchase Contract that NEOGOV has with the Pascua Yaqui Tribe. The City of Flagstaff Procurement department has verified that the original Cooperative Purchase Contract continues to be valid and appropriate and presents the best value to the City.

Attachments: Second Amendment

SECOND AMENDMENT

COOPERATIVE PURCHASE CONTRACT

GOVERNMENTJOBS.COM D/B/A NEOGOV

Contract No. 2021-82

This Second Amendment ("Second Amendment") to the fully executed Cooperative Purchase Contract (Contract No. 2021-82) dated April 16, 2021 (the "Initial Contract"), is made and entered into this ____ day of May, 2025, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and GovernmentJobs.com, Inc., a California corporation d/b/a NEOGOV ("Contractor").

RECITALS:

A. On April 16, 2021, the City entered the Initial Contract with NEOGOV to obtain licenses for three software modules utilized by the Human Resources Division for recruiting, employee performance evaluations, and training ("Original Licenses"); and

B. The Initial Contract was for a three-year term (April 13, 2021 – April 12, 2024) and totaled $236,124.41; and

C. On December 29, 2023, the Parties executed the First Amendment to the Initial Contract, which added three years of additional new hire on-boarding services to the Original Licenses; and

D. The total cost for the three years of additional services added pursuant to the First Amendment totaled an additional $128,932.80; and

E. In April 2024, the Parties extended the Original Licenses for an additional one-year term, thereby extending use of the Original Licenses through April 12, 2025; and

F. The total cost for the one-year extension of the Original Licenses totaled $87,736.87; and

G. The Parties now wish to extend the Original Licenses for an additional one-year term through April 12, 2026; and

H. The total cost for the second one-year extension through April 12, 2026, totals $102,869.72, for a total contract amount of $555,663.80.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

The Parties to the Initial Contract hereby agree to the following Second Amendment. Deleted text has a strikethrough and new text is bolded and ALLCAPS.

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or

services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

APPLICANT TRACKING LICENSES
PERFORM LICENSES
LEARN SETUP TRAINING AND LICENSES

and as more specifically described in **I)** the scope of work attached to the Initial Contract as Exhibit A, ~~and~~ **II)** the scope of work dated February 8, 2023, attached to ~~this~~ **THE** First Amendment as Exhibit A**, AND III) THE INVOICE DATED MARCH 13, 2024, ATTACHED TO THE SECOND AMENDMENT AS EXHIBIT A, AND THE INVOICE DATED FEBRUARY 12, 2025, ATTACHED TO THE SECOND AMENDMENT AS EXHIBIT B**.

2. Compensation: In consideration for the **LICENSES AND SERVICES MORE FULLY DESCRIBED IN THE SCOPES OF WORK AND INVOICES OUTLINED IN PARAGRAPH 1, THE TERMS OF WHICH ARE PROVIDED FOR IN EACH SCOPE OF WORK AND INVOICE, CITY SHALL PAY CONTRACTOR AN AMOUNT NOT TO EXCEED $555,663.80, IN ACCORDANCE WITH EACH SCOPE OF WORK AND INVOICE**. ~~Contractor's satisfactory performance, City shall pay Contractor a sum of two hundred thirty-six thousand one hundred twenty-four dollars and forty-one cents ($236,124.41), plus an additional one hundred twenty-eight thousand nine hundred thirty-two dollars and eighty cents ($128,932.80) for a total contract price of three hundred sixty-five thousand fifty-seven dollars and twenty one cents ($365,057.21) set forth in the scope of work dated February 8, 2023, attached to this First Amendment as Exhibit A.~~

3. All other provisions of the Initial Contract and other amendments shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Second 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	**GovernmentJobs.com d/b/a NEOGOV**
By:_____ Greg Clifton, City Manager	By:_____ Title:_____
Dated:_____	Dated: _____
Attest:	Approved as to form:
_____ City Clerk	_____ City Attorney

Exhibit A

NEOGOV Invoice Dated March 13, 2024
Term: April 13, 2024 – April 12, 2025

(attached)

NEOGOV

Invoice #INV-39942

From

Governmentjobs.com, Inc. DBA NEOGOV
2120 Park Pl,
Suite 100
El Segundo, CA 90245

Bill To

Flagstaff, City of (AZ)
211 W Aspen Ave.
Flagstaff, AZ 86001
USA

Invoice Summary

Invoice Number	INV-39942
Date	03/13/2024
Terms	Net 30
Due Date	04/12/2024
Amount Due (USD)	$ 87,736.87

Item / Description	Total
Perform This is your subscription fee for Perform for the term starting 04/13/2024 and ending 04/12/2025.	29,132.06
Insight This is your subscription fee for Insight for the term starting 04/13/2024 and ending 04/12/2025.	20,248.86
Governmentjobs.com This is your subscription fee for Governmentjobs.com for the term starting 04/13/2024 and ending 04/12/2025.	2,904.44
Candidate Text Messaging This is your subscription fee for Candidate Text Messaging for the term starting 04/13/2024 and ending 04/12/2025.	1,011.65
Single Sign On Integration This is your subscription fee for Single Sign On Integration for the term starting 04/13/2024 and ending 04/12/2025.	1,283.12
Learn This is your subscription fee for Learn for the term starting 04/13/2024 and ending 04/12/2025.	33,156.74
Amount Due (USD)	$ 87,736.87

Thank you for your business!

For questions, or pay by credit card, please reply to this email or reach out to billing@neogov.com. For questions on a renewals invoice, please reach out to renewals@neogov.com.

Please make checks payable to:

Governmentjobs.com, Inc
DEPT LA 25067
Pasadena, CA 91185-5067

For Payments by Wire:

Silicon Valley Bank
Account #: 3302022848
Account Name: Governmentjobs.com, Inc.
Bank Routing No.: 121140399

Swift Code: SVBUS6SIBO

For a copy of our W9, please click on "Download W9" above.

Exhibit B

NEOGOV Invoice Dated February 12, 2025
Term: April 13, 2025 – April 12, 2026

(attached)

NEOGOV

PowerDMS by NEOGOV

INVOICE

Vendor Information / Contact:

2120 Park Pl, Suite 100
El Segundo, CA 90245
Email: billing@neogov.net
Phone: (310) 426-6304
EIN: 33-0888748

Need a W-9? Click here: **W-9 PDF**

Invoice Summary:

Invoice No.:	INV-130401
Invoice Date:	02-12-2025
Due Date:	04-13-2025
Payment Terms:	Net 60
Purchase Order No.:	
Customer No.:	A-650861

Customer Billing Information
Maggie Flagstaff City Of (Az) Flagstaff, City of (AZ) 211 W. Aspen Flagstaff, AZ 86001 United States

Customer Shipping Information
Flagstaff, City of (AZ) 211 W. Aspen Flagstaff, AZ 86001 USA

Invoice Details:

Product	Start Date	End Date	Quantity	Total Price ($USD)
Candidate Text Messaging Subscription	04-13-2025	04-12-2026	842	$1,112.82
Governmentjobs.com Subscription	04-13-2025	04-12-2026	842	$3,093.23
Insight Subscription	04-13-2025	04-12-2026	842	$21,666.28
Learn Subscription	04-13-2025	04-12-2026	842	$35,809.28
Perform Subscription	04-13-2025	04-12-2026	842	$31,171.30
Single Sign On Subscription	04-13-2025	04-12-2026	842	$1,366.52

SUBTOTAL ($USD)	$94,219.43
Sales Tax	$8,650.29
TOTAL	$102,869.72
Payments	$0.00
Credits	$0.00
Balance Due ($USD)	**$102,869.72**

Payment Instructions:

Remit checks to:	**Remit electronic payments to:**	**Credit card payments:**
Governmentjobs.com, Inc. DEPT LA 25067 Pasadena, CA 91185-5067	Silicon Valley Bank Name: Governmentjobs.com, Inc. Account #: 3302022848 Routing #: 121140399 Swift Code: SVBUS6SIBO	Credit Card Payment Portal Link

By making the payment specified in this invoice, customer agrees that the terms and conditions of the agreement previously executed by the parties shall apply to this purchase, or if there is no prior agreement, the terms and conditions of the NEOGOV Services Agreement set forth in the quote previously provided to Customer shall apply. Any other terms and conditions provided by customer to NEOGOV in a purchase order or otherwise shall be deemed void.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Amy Hagin, Assistant Parks and Recreation Director

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Approval of Contract: Approve the Construction Contract with Hope Construction LLC for Sport Courts at Bushmaster Park.

STAFF RECOMMENDED ACTION:

1. Approve the Construction Contract with Hope Construction LLC ("Contractor") in the amount of $2,168,892 and a contract time duration of 210 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The contract award of $2,168,892 is proposed to construct two (2) new basketball courts, two (2) new tennis courts and eight (8) new pickleball courts, plus new sports court lighting, new hardscape and sitework, fencing and landscaping at the community park. The existing two (2) basketball courts and two (2) tennis courts that are dual-striped for eight (8) pickleball courts will be demolished to create the new amenities.

Financial Impact:

Project Name: Sport Courts at Bushmaster Park
Cost: $2,168,892
Account Number Budgeted: 055-11-158-3067-5-4433
FY Budgeted Amount: $1,803,593: FY2024-25 $824,235 and FY2025-26 $979,358. Additional funding is available in FY2024-25 in 051-07-212-3326-5-4433 for $100,000 and the remaining balance of the project from 055-11-158-3627-5-4433 in FY2025-26.
Grant Funded: No
Funding Source: BBB-Recreation Capital Program

Policy Impact:

There is no policy impact.

Previous Council Decision or Community Discussion:

May 16, 2023, Consideration and Approval of Contract
June 6, 2023, Citizen Petition Pickleball Reconsideration
July 3, 2023, Consideration of Prior Council Action: pickleball Courts at Bushmaster Park
July 3, 2023, City of Flagstaff Bushmaster Park Sports Courts
August 28, 2023, Citizen Petition - Pickleball Reconsideration
September 5, 2023, FAIR: Discussion about a sound study regarding the pickleball courts at Bushmaster Park
October 17 and November 7, 2023, City Code Changes to Park Hours
December 12, 2023, Design Update on Pickleball Courts at Bushmaster Park

Options and Alternatives to Recommended Action:

1. Approve the Construction Contract award as recommended. Approval will allow work on the project to begin in May 2025.
2. Reject all bids. This action would delay or cancel the project.

Background and History:
Over the past decade, PROSE has delivered a variety of sports court improvements to the parks' system with a limited fund balance. Through processes such as a budget request of the general fund, a grant award, Section operating capital, and lastly, through the development of a capital plan with a special revenue fund (BBB Recreation), PROSE has delivered tennis courts in Sunnyside, resurfacing of courts in Thorpe Park, dual striping at existing courts to add pickleball play, permanent pickleball and basketball courts, and now is in a position to deliver multiple sport courts at Bushmaster Park through the BBB special revenue fund.

The project to deliver multiple sports courts at Bushmaster Park has resulted in a handful of discussions and decisions by City Council since May 2023. This history of discussions and decisions has resulted in a professionally designed construction project of which two (2) distinct designs were created to solicit, through a competitive procurement process, the most advantageous improvement for the community.

The Purchasing section posted an Invitation for Bid solicitation for construction on March 19, 2025, on the PlanetBids.com website and advertised 3/25/2025 & 4/1/2025 in the Arizona Daily Sun. There were two (2) firms that submitted one (1) bid for each plan set received on the opening date, April 10, 2025. After reviewing all bids received, staff determined that Hope Construction, LLC., was the lowest responsive and responsible bidder. Through the formal procurement process, an invitation for bids, the lowest responsible bidder is Hope Construction, LLC, in the amount of $2,168,892 on one (1) of the professionally designed set of construction drawings. The professionally designed set of construction drawings includes the removal of the existing two (2) basketball courts and two (2) tennis courts with the construction of two (2) new basketball courts, two (2) new tennis courts and eight (8) new pickleball courts inclusive of new sports court lighting, new site-work, and new hard and landscapes.

Connection to PBB Priorities and Objectives:
Safe and Healthy Community: Promote physical and mental well-being through providing recreational opportunities, parks, open space, and active transportation options
Livable Community: Provide amenities and activities that support a healthy lifestyle

Connection to Regional Plan:
Goal REC1: Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

Connection to Carbon Neutrality Plan:
IR-2: Ensure equity, accessibility, and inclusion across all City of Flagstaff Parks and Recreation facilities, helping all members of the Flagstaff community to meet their health and wellness needs.

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

Connection to Division Specific Plan:
City of Flagstaff Parks and Recreation Master Plan: Goal A.3.1.7 When economically appropriate and feasible, partner with private recreation providers and associations to offer specialty parks and facilities.

Attachments: 2025-150 Hope Construction Sports Courts Contract
Presentation

CONSTRUCTION CONTRACT # 2025-150

City of Flagstaff, Arizona
and
Hope Construction LLC

This Construction Contract ("Contract") is made and entered into this ____ day of _____, 2023, by and between the City of Flagstaff, a political subdivision of the state of Arizona ("Owner"), and Hope Construction LLC, an Arizona limited liability partnership ("Contractor"). Owner and Contractor may be referred to each individually as a "Party" and collectively as the "Parties."

RECITALS

A. Owner desires to obtain construction services ("Services"); and

B. Contractor has available and offers to provide personnel and materials necessary to accomplish the work and complete the Project as described in the Scope of Work within the required time in accordance with the calendar days included in this Contract.

NOW, THEREFORE, the Owner and Contractor agree as follows:

1. Scope of Work. Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services, and facilities for the **Sport Courts at Bushmaster Park** ("Project"). The Project scope is specific to the Special Provisions attached hereto as **Exhibit A**. Contractor shall construct the Project for the Owner in a good, workmanlike and substantial manner and to the satisfaction of the Owner through its engineers and under the direction and supervision of the City Engineer or his properly authorized agents ("Engineer"), including but not limited to project managers and project engineers. Contractor's work shall be strictly pursuant to and in conformity with the Contract.

1.1 A Pre-Construction Conference will be held with the successful Contractor after the Notice of Award is issued. The date and time of the Conference will be agreed upon between Contractor and the Engineer at a location identified by the Owner. The purpose of the Conference is to outline specific construction items and procedures that the Owner feels require special attention on the part of Contractor. Contractor may also present any variations in procedures to improve the workability of the Project, reduce the cost, or reduce inconvenience to the public. Contractor shall submit a written proposal at this Conference outlining intended plans for pavement replacement, maintaining continuous access to residences and businesses along the construction site, and traffic control.

2. Contract; Ownership of Work. Contractor shall furnish and deliver all of the materials and perform all of the work in accordance with this Contract; Construction Plans ("Plans"); Special Provisions; the City of Flagstaff Engineering Design and Construction Standards and Specifications; the latest version of the Maricopa Association of Governments ("MAG") Specifications for Public Works Construction and City Revisions of MAG Standard Specifications for Public Works Construction attached hereto as **Exhibit B**; and any Arizona Department of Transportation ("ADOT") Standards that may be referenced on the Plans or in the specifications,

incorporated in this Contract by reference, plans, and associated documents. All provisions of the Invitation for Bid, Performance Bond, Payment Bond, Certificates of Insurance, Addenda, Change Orders, and Field Orders, if any, are hereby incorporated into this Contract. All materials, work, specifications, and plans shall be the property of the Owner.

The following exhibits are incorporated by reference and are expressly made a part of this Contract:

2.1	Sport Courts at Bushmaster Park Special Provisions	Exhibit A
2.2	City of Flagstaff Amendments to MAG Standard Specifications for Public Works Construction ("Flagstaff Addendum to MAG")	Exhibit B
2.3	Bid Schedule	Exhibit C

3. Payments. In consideration of the faithful performance of the work described in this Contract, the Owner shall pay an amount not to exceed Total Contract Amount of **Two Million One Hundred Sixty-Eight Thousand Eight Hundred Ninety-Two Dollars and Zero Cents ($2,168,892.00)** to Contractor for work and materials provided in accordance with the submitted Bid Schedule attached hereto as **Exhibit C**, which amount includes all federal, state, and local taxes, as applicable. This amount shall be payable through monthly progress payments, subject to the following conditions:

3.1 Contractor shall promptly submit to the Owner all proper invoices necessary for the determination of the prices of labor and materials;

3.2 The City Engineer shall have the right to finally determine the amount due to Contractor;

3.3 As authorized by A.R.S. § 34-221, progress payments shall be made in the amount of ninety percent (90%) of the value of labor and materials incorporated in the work, based on the sum of the Contract prices of labor and material, and of materials stored at the worksite, on the basis of substantiating paid invoices, as estimated by the Owner, less the aggregate of all previous payments, until the work performed under this Contract is fifty percent (50%) complete. When and after such work is fifty (50%) complete, the ten percent (10%) of value previously retained may be reduced to five percent (5%) of value completed if Contractor is making satisfactory progress as determined by the Owner, and providing that there is no specific cause or claim requiring a greater amount to be retained. If at any time the Owner determines that satisfactory progress is not being made, the ten percent (10%) retention shall be reinstated for all subsequent progress payments made under this Contract;

3.4 Contractor agrees that title to materials incorporated in the work, and stored at the site, shall vest with the Owner upon receipt of the corresponding progress payment;

3.5 The remainder of the Contract price, after deducting all such monthly payments and any retention, shall be paid within sixty (60) days after final acceptance of completed work by the Owner. The release of retention or alternate surety shall be made following the Owner's receipt and acceptance of: Contractor's Affidavit Regarding Settlement of Claims, Affidavit of Payment, Consent of Surety for Final Payment, and Unconditional Full and Final lien waivers from all

subcontractors and suppliers who have filed an Arizona Preliminary Twenty Day Lien Notice in accordance with A.R.S. §§ 33-992.01 and 33-992.02.

4. Time of Completion. Contractor agrees to complete all work as described in this Contract within **two hundred ten (210) calendar days** from the date of the Owner's Notice to Proceed, free of all liens, claims, and demands of any kind for materials, equipment, supplies, services, labor, taxes, and damages to property or persons, in the manner and under the conditions specified within the time or times specified in this Contract.

5. Performance of Work. All work covered by this Contract shall be done in accordance with the latest and best accepted practices of the trades involved. The Contractor shall use only skilled craftsmen experienced in their respective trades to prepare the materials and to perform the work.

6. Acceptance of Work; Non-Waiver. No failure of the Owner during the progress of the work to discover or reject materials or work not in accordance with this Contract shall be deemed an acceptance of, or a waiver of, defects in work or materials. No payment shall be construed to be an acceptance of work or materials which are not strictly in accordance with the Contract.

7. Delay of Work. Any delay in the performance of this Contract due to strikes, lockouts, fires, or other unavoidable casualties beyond the control of Contractor and not caused by any wrongful act or negligence of Contractor shall entitle Contractor to an extension of time equal to the delay so caused. Contractor shall notify the Owner in writing specifying such cause within twenty-four (24) hours after its occurrence. In the event such delay is caused by strikes, lockouts, or inability to obtain workmen for any other cause, the Owner shall have the right but shall not be obligated to complete the work on the same basis as is provided for in this Contract.

8. Failure to Complete Project in Timely Manner. If Contractor fails or refuses to execute this Contract within the time specified within this Contract, or such additional time as may be allowed, the proceeds of Contractor's performance guaranty shall become subject to deposit into the Treasury of the municipality as monies available to compensate the Owner for damages as provided by A.R.S. § 34-201 for the delay in the performance of work under this Contract, and the necessity of accepting a higher or less desirable bid from such failure or refusal to perform this Contract as required. If Contractor has submitted a certified check or cashier's check as a performance guaranty, the check shall be returned after the completion of this Contract.

9. Labor Demonstration. It is understood that the work covered by this Contract is for the Owner's business purposes and that any unfavorable publicity or demonstrations in connection with the work will have a negative effect upon the Owner. If Contractor's actions in performance of the Contract result in any public demonstration on behalf of the laborers or organized labor in the vicinity of the Owner's premises, whether such demonstration is in the form of picketing, posting of placards or signs, violence, threats of violence, or in any other form, which in the Owner's judgment might convey to the public the impression that the Owner or the Contractor or any subcontractor is unfair to laborers or to organized labor, the Owner shall have the right to terminate this Contract immediately, unless the Contractor shall have caused such demonstration to be discontinued within two (2) days after request of the Owner to do so. In the event any such demonstration is attended by violence, the Owner may fix lesser time within which a discontinuance shall be accomplished. In the event of Contract termination, Contractor agrees to remove from the Premises within twenty-

four (24) hours of termination all machinery, tools, and equipment belonging to it or to its subcontractors. All obligations or liabilities of the Owner to Contractor shall be discharged by such termination, except the obligation to pay to Contractor a portion of the Contract price representing the value based upon the Contract prices of labor and materials incorporated in the work as established by the Owner, less the aggregate of all previous payments, but subject to all of the conditions pertaining to payments generally.

10. Material Storage. During the progress of the work, the Contractor shall arrange for office facilities and for the orderly storage of materials and equipment. Contractor shall erect any temporary structures required for the work at his or her own expense. Contractor shall at all times keep the premises reasonably free from debris and in a condition which will not increase fire hazards. Upon completion of the work, Contractor shall remove all temporary buildings and facilities and all equipment, surplus materials, and supplies belonging to Contractor. Contractor shall leave the Premises in good order, clean, and ready to use by the Owner. The establishment of any temporary construction yard, material storage area, or staging area to be located within City of Flagstaff limits and outside the public right-of-way or Project limits generally requires a Temporary Use Permit. (See Exhibit B, Section 107.2.1.).

11. Maintenance During Winter Suspension of Work.

11.1 A "Winter Shutdown" is the period of time typically including December through March during which no work will be performed by any person or entity (including but not limited to Contractor) on the Project and Contractor shall shutdown, properly insulate, and shelter the Project in a safe and workmanlike manner pursuant to local, state, and federal laws. Although December through March is typically the time frame, the Owner reserves the right to initiate and terminate a Winter Shutdown at the Owner's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the Owner despite delays, *for any reason,* on the Project. The Owner retains the right to declare a Winter Shutdown. If work has been suspended due to winter weather, Contractor shall be responsible for maintenance and protection of the improvements and of partially completed portions of the work until final acceptance of the Project. Winter Shutdown shall be by field order, change order, or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, Contractor is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the Owner. If the needed repairs and/or maintenance are not addressed within the time frame, the Owner will accomplish the work and deduct the cost from monies due or that become due to Contractor.

11.2 The Owner shall provide snow removal operations on active traffic lanes only during the Winter Shutdown. All other snow removal and maintenance operations shall be the responsibility of Contractor during the Winter Shutdown. All costs associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations during the Winter Shutdown.

12. Assignment. Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the Owner, and no delegation of any duty of Contractor shall be made without prior written consent of the Owner. The Owner shall not unreasonably withhold consent to such assignment. Contractor agrees that any assignment agreement between Contractor and the assignee shall include and subject to the assignee all obligations, terms, and conditions of this

Contract and that Contractor shall also remain liable under all obligations, terms, and conditions of this Contract.

13. Notices. Any notices or demands required to be given, pursuant to the terms of this Contract, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default, and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested, at the address set forth below ***and*** to legal counsel for the Party to whom the notice is being given.

If to Owner:
Emily Markel
Purchasing Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, AZ 86001
EMarkel@flagstaffaz.gov

If to Contractor:
David Carpenter
Manager
Hope Construction, LLC
495 S. River Run Rd., Suite 100
Flagstaff, AZ 86001
dc@hopeaz.com

With a Copy to:
Amy Hagin
Assistant Parks and Recreation
Director City of Flagstaff
211 West Aspen Avenue
Flagstaff, AZ 86001
ahagin@flagstaffaz.gov

14. Contract Violations. In the event that any of the provisions of this Contract are violated by Contractor or by any of Contractor's subcontractors, the Owner may serve written notice upon Contractor and the Surety of its intention to terminate such Contract ("Notice to Terminate"). The Contract shall terminate within five (5) days of the date Contractor receives the Notice to Terminate, unless the violation ceases and Contractor makes arrangements for correction satisfactory to the Owner. In the event of any such termination, the Owner shall immediately serve notice of the termination upon the Surety by registered mail, return receipt requested. The Surety shall have the right to take over and perform the Contract. If the Surety does not commence performance within ten (10) days from the date of receipt of the Owner's notice of termination, the Owner may complete the work at the expense of Contractor, and Contractor and his or her Surety shall be liable to the Owner for any excess cost incurred by the Owner to complete the work. If the Owner completes the work, the Owner may take possession of and utilize such materials, appliances, and plants as may be on the worksite site and necessary for completion of the work.

15. Termination for Convenience. The Owner may terminate this Contract at any time for any reason by giving at least **thirty (30) days** written notice to Contractor. If termination occurs under this Section, Contractor shall be paid fair market value for work completed by Contractor as of the date of termination. The Parties agree that fair market value shall be determined based on

Contractor's Specifications (Scope & Cost Estimation), less any work not yet completed by Contractor as of the date the written notice of termination is given to Contractor.

16. Contractor's Liability and Indemnification. To the fullest extent permitted by law, Contractor shall indemnify, save, and hold harmless the City of Flagstaff and its officers, officials, agents, and employees ("Indemnitee") from and against liabilities, damages, losses, and costs, including reasonable attorneys' fees, but only to the extent caused by the recklessness or intentional wrongful conduct of Contractor, subcontractor, or design professional, or other persons employed or used by Contractor, subcontractor, or design professional in the performance of the Contract. The amount and type of insurance coverage requirements set forth in this Contract (Exhibit B, Section 103.6) will in no way be construed as limiting the scope of the indemnity in this paragraph.

17. Non-Appropriation. In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Owner to meet the Owner's obligations under this Contract, the Owner will notify Contractor in writing of such occurrence, and this Contract will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Contract are exhausted. No payments shall be made or due to the other Party under this Contract beyond these amounts appropriated and budgeted by the Owner to fund the Owner's obligations under this Contract.

18. Amendment of Contract. This Contract may not be modified or altered except through a formal written amendment or a written change order, approved by the Owner's Change Order Committee, signed by duly authorized representatives of the parties, which directs Owner or Contractor, to make alterations to the original Contract.

19. Subcontracts. Contractor shall not enter into any subcontract, or issue any purchase order for the completed work, or any substantial part of the work, unless in each instance, prior written approval shall have been given by the Owner. Contractor shall be fully responsible to the Owner for acts and omissions of Contractor's subcontractors and all persons either directly or indirectly employed by them.

20. Cancellation for Conflict of Interest. This Contract is subject to the cancellation provisions of A.R.S. § 38-511.

21. Compliance with All Laws. Contractor shall comply with all applicable laws, statutes, ordinances, regulations, and governmental requirements in the performance of this Contract.

22. Contractor's Warranty. Contractor 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, Verification of Employment Eligibility. Contractor shall not employ aliens in accordance with A.R.S. § 34-301, Employment of Aliens on Public Works Prohibited. Contractor acknowledges that pursuant to A.R.S. § 41-4401, Government Procurement; E-Verify Requirement; Definitions, 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 Owner retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

23. Jurisdiction and Venue. This Contract shall be administered and interpreted under the laws of the State of Arizona. Contractor hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

24. Attorneys' Fees. If suit or action is initiated in connection with any controversy arising out of this Contract, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

25. Time is of the Essence. Contractor acknowledges that the completion of the Contract by the dates specified is critical to the Owner, time being of the essence of this Contract.

26. No Third-Party Beneficiaries. The Parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Contract are for the sole benefit of, and may be enforceable solely by, the Parties to this Contract, and none of the terms, provisions, conditions, and obligations of this Contract are for the benefit of, or may be enforced by, any person or entity not a party to this Contract.

27. Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Contract.

28. Severability. If any part of this Contract is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the Parties intend that the remaining provisions of this Contract shall remain in full force and effect unless the stricken provision leaves the remaining Contract unenforceable.

29. Records. The Owner and its employees, agents, and authorized representatives shall have the right at all reasonable times and during all business hours to inspect and examine Contractor's records related to this Contract. Contractor shall retain all records related to this Contract for a period consistent with the City of Flagstaff's records retention policy. This record retention requirement shall remain in effect following termination of the Contract.

30. Force Majeure.

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

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

30.3 The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and the extension will be in an amount of time equal to any temporary

delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

31. No Boycott of Israel. Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents ($100,000.00), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

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

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

34. 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.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the Owner and Contractor, by their duly authorized representatives, have executed this Contract as of the date written above.

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

Owner, City of Flagstaff	**Hope Construction, LLC**
Greg Clifton, City Manager	Signature
Attest:	Printed Name
City Clerk	Title
Approved as to form:	
City Attorney	

Last Updated March 26, 2024

CITY OF FLAGSTAFF, ARIZONA
PAYMENT BOND

PROJECT NAME: Sport Courts at Bushmaster Park
BID NUMBER: 2025-150

STATUTORY PAYMENT BOND PURSUANT TO TITLE 34
CHAPTER 2, ARTICLE 2, OF THE ARIZONA REVISED STATUTES
(Penalty of this Bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____ (hereinafter called the "Principal"), as Principal, and, _____ _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto the City of Flagstaff, Arizona (hereinafter called the "Obligee"), in the amount of _____ Dollars ($_____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated this _____ day of_____, 20___, to the City of Flagstaff, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

Now, therefore, the condition of this obligation is such, that if the Principal promptly pays all monies due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in the Contract, this obligation is void. Otherwise, it remains in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions, and limitations of said Title and Chapter, to the same extent as if it were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this _____ day of _____ 20___.

_____	_____
Principal (Seal)	Surety (Seal)
By: _____	By: _____
_____	_____
Agency of Record	Agency Address

Last Updated March 26, 2024

CITY OF FLAGSTAFF, ARIZONA
PERFORMANCE BOND

PROJECT NAME: Sport Courts at Bushmaster Park
BID NUMBER: 2025-150

STATUTORY PERFORMANCE BOND PURSUANT TO TITLE 34
CHAPTER 2, ARTICLE 2, OF THE ARIZONA REVISED STATUTES
(Penalty of this Bond must be 100% of the Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____
(hereinafter called the "Principal"), as Principal, and, _____
_____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto the City of Flagstaff, Arizona (hereinafter called the "Obligee"), in the amount of _____ _____ Dollars ($_____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated this ____day of _____, 20__ in the City of Flagstaff, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

Now, therefore, the condition of this obligation is such, that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions, and agreements of the Contract during the original term of the Contract and any extension of the Contract, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions, and agreements of all duly authorized modifications of the Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is void. Otherwise, it remains in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined

in accordance with the provisions of said Title and Chapter, to the extent as if it were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this _____ day of _____20__.

_____	_____
Principal (Seal)	Surety (Seal)
By: _____	By: _____
_____	_____
Agency of Record	Agency Address

Last Updated March 26, 2024

EXHIBIT A - SPECIAL PROVISIONS

SPORT COURTS
AT
BUSHMASTER PARK

100% Submittal - Base Bid

P.O. Number 24-001550
Requisition Number R24-000333

City of Flagstaff
Parks Division

LOGAN SIMPSON
DESIGN INC.

222 South Mill Avenue
Suite 222
Tempe, Arizona 85281

January 10, 2025

TECHNICAL SPECIFICATIONS

FOR

Pickleball Courts in Bushmaster Park

P.O. Number 24-001550
Requisition Number R24-000333

City of Flagstaff
Parks Division

PROFESSIONAL SEALS:

The following section of specifications and related contract documentation represents the efforts of the following firm:

Logan Simpson Design Inc.

An appropriate representative from the firm has affixed their seal below, which attests that those portions of these Special Provisions that relate to the drawing numbers appearing with their seal were prepared under their direction.

Specification Sections

Section 02010	Site Clearing
Section 02470	Site Furnishings
Section 02471	Chain Link Fence and Gates, Metal Rail Fence
Section 02810	Irrigation System
Section 02901	Landscaping

Plan Sheets

LC 0.0 Cover Sheet
LD 1.0 Demolition Plan
LH 1.1 Hardscape Plan
LH 2.1 Hardscape Details
LL 1.1 Landscape Plan
LL 2.1 Landscape Details
LI 1.1 Irrigation Plan
LI 2.1 Irrigation Details

SECTION 02010

SITE CLEARING

All work shall comply with the most recent version of MAG Specifications and Details. In case of conflicts, the order of precedence shall be the City of Flagstaff Supplemental Specifications, these Technical Specifications, followed by the MAG Standard Specifications.

PART 1 - GENERAL

1.01 DESCRIPTION OF WORK

A. The Contractor shall provide all material, equipment, and labor required to clear the construction site of sidewalks, trees, underground obstructions, and other items not scheduled to be part of the finished construction. Also included in this section is the staking of the proposed clearing limits for review, tagging of vegetation and items to remain after site clearing, enclosing the work area with chain link fencing, and proper disposal of all debris cleared from the site.

B. The work of this section includes the salvage of selected equipment and materials as noted on the Drawings and as described in these Special Provisions and delivering the items to a City of Flagstaff facility to be identified at the Pre-Construction meeting.

C. The contractor shall obtain coverage under and implement the requirements of the Arizona Pollutant Discharge Elimination System (AZPDES) for erosion control as specified in the “Construction General Permit For Discharge From Construction Activities To the Waters Of The United States” as issued by the Arizona Department of Environmental Quality (ADEQ). The contractor, with input from the City Representative, shall prepare a SWPPP, file a Notice of Intent (NOI), implement the SWPPP, and file a Notice of Termination (NOT), all as described herein. The contractor shall not begin clearing, grubbing, or earthwork until the SWPPP has been approved and documentation of coverage is received.

D. Existing materials and/or equipment removed as part of the site clearing shall become the property of the contractor.

1.02 JOB CONDITIONS

A. Special Provision Section 02810 – Irrigation System has requirements that affect the Work of this Section.

B. Special Provision Section 02901 – Planting has requirements that affect the Work of this Section.

C. Traffic: Conduct site clearing operations to ensure minimum interference to Bushmaster Park visitors, traffic on nearby City streets, and other adjacent occupied or used facilities. Do not close or obstruct existing facilities without permission from the City Representative.

D. Protection of Existing Improvements: Provide protection as necessary to prevent damage to existing improvements indicated to remain in place. Restore damaged improvements to their original condition, as acceptable to the City

Representative.

E. Provide a 6-foot chain link fence with visual screen to fully enclose the work area. Clearing cannot begin until the fencing has been installed and accepted. Fence location shall be confirmed through the field review of the staked clearing limits as noted above. Provide City Representative with two keys to all locks and gates used for access to the site. Fencing shall be removed only when directed by the City Representative.

F. Surface soils may be stripped and stockpiled by the contractor for subsequent used during the landscaping operation.

G. The concrete slab under the existing tennis courts is to remain as is after clearing has been completed.

H. Contractor shall salvage all basketball rims/backboards/poles; tennis nets and posts; benches; and signboards within the area to be cleared. Footings are not to be salvaged but shall be removed from the site.

PART 2 – PRODUCTS – N/A

PART 3 – EXECUTION

GENERAL

A. Remove concrete, chain link fencing, dirt, rock, trees, vegetation, irrigation components, electrical poles, sundry appurtenances, and obstructions interfering with the installation of new facilities and improvements. Removal includes digging out stumps and roots to a minimum of 12” below finish grade.

B. Any site elements that are identified as Salvage shall be removed from the site and transported to a to-be-determined location by the City.

3.02 SURFACE SOIL

A. Surface soil may be salvaged and utilized as part of the landscaping plant backfill mix. Surface soil is defined as in-situ soil found at a depth of not more than 4"-6” with the Project area. Satisfactory surface soil shall be reasonably free of subsoil, clay lumps, stones, and other objects over 2" in diameter, and without weeds, roots, pine needles, and other objectionable material.

B. Remove turf grass or grass infestations from stripping areas before stripping.

C. Stockpile surface soils in piles as approved by City Representative. Construct storage piles to freely drain surface water. Cover storage piles if required to prevent wind-blown dust.

3.03 DISPOSAL OF WASTE MATERIALS

A. Remove all waste materials, including unsuitable and excess materials, from the

site and dispose of off-site in a legal manner.

END OF SECTION

SECTION 02470

SITE FURNISHINGS

All work shall comply with the most recent version of MAG Specifications and Details. In case of conflicts, the order of precedence shall be the City of Flagstaff Supplemental Specifications, these Technical Specifications, followed by the MAG Standard Specifications.

PART 1 GENERAL

1.01 SUMMARY

A. The work under this Section shall consist of furnishing all labor, materials, equipment and incidentals to install the following site furnishings complete in place and ready for intended use in accordance with the manufacturer's specifications, these Special Provisions and the project Drawings.
   1. First Team Brute Max In Ground Basketball Goal – 36" x 54", aluminum
   2. Douglas Premier XS Tennis Posts, 2 7/8" O.D., Brass Gears, Green color, with PVC sleeve.
   3. Douglas TN-36T Tennis Net, tapered, 42' x 3'6", 3.5mm thickness
   4. Douglas Premier XS-36 Pickleball Posts, 2 7/8" O.D., Brass Gears, Green color, with PVC sleeve
   5. Douglas PN-30 Pickleball Net – 31" x 21'9"

1.02 RELATED WORK

A. Striping and colorizing the court surfaces will affect the Work of this Section.

1.03 SUBMITTALS

A. Submit for approval full product data cut sheets and technical information on all furnishings to be installed. If the manufacturer recommends anchoring or footing details, submit copies of the details to the Owner's Representative for review and approval prior to construction. Manufacturer recommendations shall take precedence over the Drawings and these Special Provisions.

PART 2 PRODUCTS

2.01 GENERAL

A. These materials specifications are based on the proprietary products shown on the Drawings to establish a standard of quality and installation procedures. Other manufacturers meeting or exceeding the quality standards of the specified product may be submitted for approval.

2.02 MATERIALS

A. Site furnishings shall be as specified herein or as approved via the material submittals. Furnishings shall be permanently anchored at locations shown on

Drawings or shop drawings, per manufacturer's specifications or the geotechnical report, whichever is applicable and most stringent.

B. Paint shall be as specified by the furnishing manufacturer.

PART 3 EXECUTION

3.01 INSTALLATION

A. Install all components at approved locations, properly aligned and spaced, plumbed vertically, complete and ready for use.

END OF SECTION

SECTION 02471

FENCES, GATES, AND RAILS

All work shall comply with the most recent version of MAG Specifications and Details. In case of conflicts, the order of precedence shall be the City of Flagstaff Supplemental Specifications, these Technical Specifications, followed by the MAG Standard Specifications.

PART 1 - GENERAL

1.01 DESCRIPTION

A. The work under this Section shall consist of furnishing all labor, materials, and incidentals to prepare shop drawings and install the fencing and rail as described herein where shown on the plans:

1. Chain link fence of different heights and gates for tennis and pickleball courts.

2. Chain link fence to separate pickleball courts, including fence topper.

3. FUTS fence at the basketball courts.

4. Safety Rail along the sidewalk ramp.

The items identified above shall be installed complete in place and ready for intended use in accordance with the manufacturer's specifications, these Special Provisions, and the approved shop drawings.

All materials, products, and Work shall conform to the 2024 Revision to the 2020 Edition of the Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction (Standards) or as superseded by these contract documents (Drawings and these Special Provisions) or the shop drawings. If there is a conflict between these references, the precedent governing order shall be the shop drawings, the contract documents, then the Standards.

1.02 SUBMITTALS

A. Product Data: Provide cut sheets, materials descriptions, and or certifications to demonstrate that all chain link components, including nuts and bolts, meet the requirements of MAG Sections 420 and 772 (Type B) or as approved by the City Representative through the shop drawing process. Provide cut sheets or certifications that Corten meets the requirements of Corten A. Steel pipe shall meet the requirements of applicable MAG sections.

B. Shop Drawings: Provide shop drawings of the chain link, FUTS fence, and safety rail elements for approval. The shop drawings shall show the layout, THICKNESS, dimensions, materials, colors, equipment, and finishes, including construction details showing the horizontal and vertical dimensions/elevations of proposed individual components such as handrails, posts, post caps, tension bars, top and bottom rail or tension wire, gates, fabric opening sizes, anchoring/footings, expansion protection, welds and connections, bracing members, fence topper, and hardware. Fence post footing designs shall be signed and sealed by a structural engineer. The shop drawings shall demonstrate that the chain link fence and FUTS fence locations are not in conflict with the back and side space guidelines of the US Tennis Court and Track Builders Association, USA Pickleball, or other applicable guidance documents unless specifically approved by the City Representative. The Safety

Rail shop drawings shall demonstrate compliance with the applicable guidelines of the Americans with Disability Act (ADA).

C. Samples for Verification: For the following products, in sizes indicated, showing the full range of color, texture, and pattern variations expected. Prepare samples from the same material to be used for the Work.

1. Fence Topper: 4 ½ inch diameter pre-split, polyethylene or heavy duty foam, and weather and mildew resistant topper. Provide a 3-foot sample for approval. Color shall be complimentary to the court colors and will be selected from manufacturer's standard colors.

PART 2 - PRODUCTS

2.01 HEIGHT

A. The height of chain link fences shall be as shown on the Drawings.

B. The height of the FUTS fence shall be as shown on the Drawings.

C. The height of the Safety Rail shall be as approved in the shop drawings.

2.02 CHAIN LINK FABRIC

A. Chain link fabric for tennis courts shall be produced from 9-gauge wire with 1 ¾-inch diamond mesh. Pickleball fencing fabric shall be 9-gauge wire with 2-inch mesh. Top and bottom selvage of fabric shall be knuckled. Bottom of chain link fence shall hang above the court surface elevation as shown on the Drawings.

2.03 CHAIN LINK POSTS, RAILS, BRACES, ACCESSORIES, AND APPURTENANCES

A . Method of Manufacturing: Round steel pipe per MAG 772.

B. Accessories and appurtenances:

1. Fabric Ties: 9-gauge (min.) galvanized steel tie wire to fasten fabric to framework.
2. Tensioned Bands: Pressed steel, beveled edge type with nuts and bolts.
3. Tension Bars: One-piece, length no more than 2 inches less than fabric height.
4. Clamps: As approved.
5. Line Post Tops: Heavy galvanized cast from eye top fitting.
6. Terminal Post Tops: Heavy galvanized iron tops of bullet type construction.

E. Gates: Pre-fabricated, round, welded frame corners and horizontal stiffener.

1. Gate Dimensions: 3' (width) x 7' (height).
2. Gate fabric to match adjacent chain link fence gauge and opening size.
3. Hardware: Fork-type latches shall permit operation from both sides of gate, and hinges. Fabricate latches with integral eye openings for padlocking; padlock accessible from both sides of gate.

F. Concrete: Concrete for footings shall be MAG Class A.

2.04 FUTS FENCE

A . Fence shall be an atmospheric corrosion resistant steel alloy using a combination of hollow tube components with a naturally appearing weathered color and A588 finish meeting the ASTM G101 of 6 or higher.

B. Concrete: Concrete for footings shall be MAG Class A.

2.05 SAFETY RAIL

A . Rail shall be high strength heavy industrial steel pipe conforming to ASTM F1043 Material Group IA-2 (2.72 lb/ft, minimum yield strength = 50 KSI (MAG Detail 145).

B. Rail shall be anchored to the sidewalk finished surface per the approved shop drawings.

C. Paint: Shall be a long-lasting, flat exterior paint as approved, complimentary to the FUTS fence color and selected from manufacturer's (i.e. Behr, Dunn Edwards, Benjamin Moore, etc.) standard color palette.

PART 3 - EXECUTION

3.01 WORKMANSHIP

A. The complete chain link fence shall be plumb, both in line and transverse to fence, straight and rigid with fabric tightly stretched and held firmly in place. Details of construction not specified, shall be performed in keeping with standard good fencing practices.

B. FUTS fence and safety rail shall be plumb, aligned, and secure as shown on the shop drawings. They shall not have any burrs, scratches, welds, or marks that detract from the visual appearance of the items.

C. Protect improvements from paint overspray.

3.02 CHAIN LINK POSTS, FABRIC, RAILS, FABRIC TIES, AND TENSION BENDS

A. Space all posts and set in concrete as indicated on the approved drawings. Posts shall be set plumb and aligned prior to placing the fabric.

B. Stretch fabric taut between posts and secure.

C. As applicable, set top, middle and bottom rails as nearly parallel to the finish grade as possible and at the specified height of the fence.

D. Provide ties every 18" O.C. maximum for rails and every 12" O.C. for posts. Ties to bottom rail shall be every fourth knuckle.

E. Provide one tension band for each 1 foot of fabric height.

3.07 CHAIN LINK GATES

A. General: Install gates according to manufacturer's written instructions, level, plumb, and secure for full opening without interference. Attach fabric as for fencing. Attach hardware

using tamper-resistant or concealed means. Install ground-set items in concrete for anchorage.

B. Adjust gate and hardware to operate smoothly, easily, and quietly, free from binding, warp, excessive deflection, distortion, nonalignment, misplacement, disruption, or malfunction, throughout entire operational range. Confirm that latches and locks engage accurately and securely without forcing or binding.

B. Lubricate hardware, and other moving parts.

END OF SECTION

Section 02810

IRRIGATION SYSTEM

All work shall comply with the most recent version of MAG Specifications and Details. In case of conflicts, the order of precedence shall be the City of Flagstaff Supplemental Specifications, these Technical Specifications, followed by the MAG Standard Specifications.

PART 1 GENERAL

Work for this Section includes modification and restoration of the existing underground irrigation system (drip and spray irrigation) to accommodate the new sports courts, including the following:

A. Trenching, stockpiling excavation materials and refilling trenches.

B. Complete system including but not limited to providing and installing piping, valves, fittings, emitters, existing controller wiring, temporary bypass piping as necessary, relocating or installing new drip and sprinkler heads, and testing the system as shown on the Drawings and final adjustments to insure complete coverage.

C. Water connections.

D. Replacement of unsatisfactory materials.

E. Clean up, inspection and approval.

F. Tests.

G. Watering Plan

1.01 REFERENCES

Perform Work in accordance with requirements of Conditions of the Contract and Division 1 - General Requirements as well as provisions of all applicable laws, codes, ordinances, rules and regulations.

All materials, products, and Work shall conform to the 2024 Revision to the 2020 Edition of the Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction (Standards), the contract documents (Drawings and these Special Provisions), and the City of Flagstaff Details 19-01-020 thru 19-02-037. If there is a conflict between these references, the precedent governing order shall be the Details, the contract documents, then the Standards.

Conform to requirements of reference information listed below except where more stringent requirements are shown or specified in Contract Documents.

A. American Society for Testing and Materials (ASTM) - Specifications and Test Methods

specifically referenced in this Section.

B. Underwriters Laboratories (UL) - UL Wires and Cables.

1.02 RELATED SECTIONS

A. The Civil Drawings contain requirements that may affect the irrigation Work.

B. Section 02010 Site Clearing contains requirements that affect the irrigation Work.

C. Section 02901 Planting contains requirements that affect the irrigation Work.

1.03 SUBMITTALS

A. Watering Plan. At the completion of the Work, the existing and restored irrigation components shall produce a complete, operating automatic system providing 100 percent coverage to all existing and installed plant material. The contractor shall investigate the water supply and static water pressure at the intended connection point(s) and determine that the source(s) or other sources will be required to satisfy the Project needs and include in his/her bid all necessary labor, equipment, materials, and fees required to install a fully functioning irrigation system as expressed in these Special Provisions. The Work shall include acquisition of as-builts from the City, development of a Watering Plan and shop drawings indicating the proposed restoration materials and equipment and pipeline layout (if different than the Drawings), a determination of water and power connections as necessary, excavation and backfill, furnishing and installing, as required by the City Representative, all plastic or polyethylene pipe and fittings, control wiring, automatic control valves, valve access boxes, pipe sleeves, temporary watering bypass connections, and/or flushing and testing the existing system delivery lines scheduled to remain but that are affected by the Work, and newly installed system components, as required to produce a single, joined system, as shown on the Drawings or as directed, and other Work as required to provide for proper operation of the installed components and the overall irrigation system resulting from the Project. The existing landscaping and turf affected by the courts installation shall be watered through the construction period as required to maintain their health and vigor. They will be allowed to skip no more than two (2) watering cycles during any one-week period; temporary bypass pipe routing/configurations may be required to meet this requirement.

B. Operation Instructions - Submit 3 written operating instructions, including start-up with cut sheets of products, and coordinate controller/watering operation with City Representative or maintenance personnel.

C. Do not prepare charts until as-builts have been reviewed by City Representative.

D. Provide one controller chart for each of the affected zones on the existing controller.

    a. Chart may be reproduction of record drawings, if scale permits fitting of controller door. If photo reduction prints are required, keep reduction to maximum size possible to retain full legibility.

b. Chart shall be blueline print of actual "as-built" system, showing area covered by the affected controller zones.
c. Identify area of coverage of each remote control valve, using a distinctly different pastel color, Drawings over entire area of coverage.
d. Following review of charts by City Representative, they shall be hermetically sealed between two layers of 20 mm thick plastic sheet.
e. Charts shall be completed and reviewed prior to final review of irrigation system.

E. As-built Drawings: At onset of irrigation installation, secure reproducible copies of original irrigation design from City Representative. Make blueline or blackline prints as required. As-built blueprints shall be brought up to date at close of working day on every Friday by a qualified draftsperson. A print of as-built drawings shall be available at project site. Indicate zoning changes on weekly as-built drawings. Indicate non-pressure piping changes on as-builts. Upon completion of project, submit for review, prior to final acceptance, final set of as-built blueprints. Dimension, from two permanent points of reference (building corners, sidewalks, road intersections or permanent structures), location of following items:

a. Connection to existing water lines
b. Routing of irrigation pressure lines (dimension maximum 100 feet along routing)
c. Irrigation control valves
d. Relocated or new heads
e. Drip line blow out stubs
f. Connection to existing control wires
g. Control wire routing if not in mainline trench
h. Irrigation Sleeves
i. Other related equipment as directed

City Representative will not certify any pay request submitted by the contractor if the as-built drawings are not current, and processing of pay request will not occur until record Drawings are updated and current.

1.04 QUALITY ASSURANCE

A. Installer Qualifications - Installer shall have had considerable experience and demonstrate ability in the installation of irrigation system(s) of specified type(s) in a neat, orderly and responsible manner in accordance with recognized standards of workmanship with five (5) consecutive years of documented service.

B. Special Requirements

1. Tolerances - Specified depths of mains and laterals and pitch of pipes are minimums. Settlement of trenches is cause for removal of finish grade treatment, refilling, re-compaction and repair of finish grade treatment.

2. Coordination With Other Contracts - Protect, maintain and coordinate Work with Work under other Sections.

3. Damage to Other Improvements - Contractor shall replace or repair damage to grading, soil preparation, seeding, or planting done under other Sections during Work associated with installation of irrigation system at no additional cost to Owner.

C. Pre-Construction Conference - Contractor shall schedule and conduct a conference to review in detail quality control and construction requirements for equipment, materials and systems used to perform the Work. Conference shall be scheduled not less than ten (10) days prior to commencement of Work. All parties required to be in attendance shall be notified no later than seven (7) days prior to date of conference. Contractor shall notify qualified representatives of each party concerned with that portion of Work to attend conference, including but not limited to City Representative and installer. Minutes of conference shall be recorded and distributed by Contractor to all parties in attendance within five days of conference.

   As part of the pre-construction conference, the contractor shall meet with the City to identify the process and schedule for completing the work. A field review of the areas of work and equipment will be conducted as part of the conference. The contractor shall identify in the field review his proposed approach to completing the work and indicate evidence of coordination with other work on the project. The contractor will accept comments from the others on the proposed activities. Within three days of the meeting, the contractor shall provide a written schedule of the proposed work for the City Representative to review. Once a strategy and schedule are agreed upon, amend the schedule only as approved by the City Representative.

1.05 DELIVERY, STORAGE AND HANDLING

Deliver, unload, store and handle materials, packaging, bundling, and products in dry, weatherproof, waterproof condition in manner to prevent damage, breakage, deterioration, intrusion, ignition and vandalism. Deliver in original unopened packaging containers prominently displaying manufacturer name, volume, quantity, contents, instructions and conformance to local, state and federal law. Remove and replace cracked, broken or contaminated items or elements prematurely exposed to moisture, inclement weather, temperature extremes, fire and/or jobsite damage.

A. Handling of PVC Pipe - Exercise care in handling, loading and storing of PVC pipe. All PVC pipe shall be transported in a vehicle that allows length of pipe to lie flat so as not to subject it to undue bending or concentrated external loads. All sections of pipe that have been dented or damaged shall be discarded, and, if installed, shall be replaced with new piping.

1.06 JOB SITE CONDITIONS

A. Protection of Property:

   Preserve and protect all monuments, structures and paved areas from damage due to Work of this Section. In the event damage does occur, all damage to inanimate items shall be completely repaired or replaced to satisfaction of City Representative. All costs of such repair shall be charged to and paid by contractor.

Protect buildings, walks, walls and other property from damage. Flare and barricade open ditches. Damage caused to asphalt, concrete or other building material surfaces shall be repaired or replaced at no cost to City. Restore disturbed areas to original condition.

B. Protection and Repair of Underground Lines

Request proper utility company to stake exact location (including depth) of all underground electric, gas or telephone lines. Take whatever precautions are necessary to protect these underground lines from damage, and, in the event damage does occur, contractor shall repair all damages. Contractor shall pay all costs of such repairs unless other arrangements have been made.

Contractor is to request City, in writing, to locate all private utilities (i.e., electrical service to outside lighting) before proceeding with excavation. If, after such request and necessary staking, private utilities that were not staked are encountered and damaged by Installer, City shall repair them at no cost to Installer. If Contractor damages staked or located utilities, Contractor shall repair them unless other arrangements have been made.

C. Replacement of Paving and Curbs

Where trenches and lines cross-existing roadways, paths, curbing, etc., damage to these shall be kept to a minimum and shall be restored to original condition.

1.07 WARRANTY

A. Manufacturer shall warranty materials against defects for a period of one year from date of Substantial Completion. Installer(s) shall guarantee workmanship through the one (1) year Plant Establishment and Maintenance Period.

B. Settling of backfilled trenches that may occur during warranty period shall be repaired at no expense to City, including complete restoration of damaged property.

C. City will not maintain planting areas until after completion of Plant Establishment Period.

1.08 MAINTENANCE

A. Furnish the following maintenance items to City Representative prior to Final Acceptance:

1. Two sets of special tools required for removing, disassembling and adjusting each type of valve supplied on this Project.

2. Ten emitters of each type used on the Project.

3. Five spray heads of each type used on the Project.

PART 2 PRODUCTS

2.01 MATERIALS

A. General Piping: Used pipe shall not be reused on the project. All components and practices must meet the requirements and standards stipulated by Maricopa County and these Special.

1. Pressure Supply Lines (downstream of backflow prevention units) – per Drawings.

2. Non-pressure Lines - Per Drawings.

3. Emitter Tubing - As recommended by emitter manufacturer.

B. Plastic Pipe and Fittings:

Identification Markings:

1. Identify all pipes with following indelible markings:

a. Manufacturer's name
b. Nominal pipe size
c. Schedule of class
d. Pressure rating psi
e. NSF (National Sanitation Foundation) seal of approval
f. Date of extrusion

2. Solvent Weld Pipe - Manufactured from virgin polyvinyl chloride (PVC) compound in accordance with ASTM D2241 and ASTM DI784; cell classification 12454-B, Type 1, Grade 1.

a. Fittings - Standard weight, Schedule 40, injection molded PVC; complying with ASTM DI784 and D2466, cell classification 12454-B.
    i. Threads - Injection molded type (where required)
    ii. Tees and ells - Side gated
b. Threaded Nipples - ASTM D2464, Schedule 40 with molded threads.
c. Joint Cement and Primer - type as recommended by manufacturer of pipe and fittings.
    i. Clamps per joint on 1-1/2 inch and 2 inch fittings.

C. Low Pressure/Volume Systems:

1. Drip Tubing - Manufactured of flexible polyvinyl chloride compound conforming to ASTM D1248, Type 1, Class C, Category 4, P14 and ASTM D3350 for PE 122111C.

2. Fittings - Type and make recommended by tubing manufacturer.

D. Drip Control Valve Assembly - type and size shown on Drawings.

1. Wye Strainer – Per Plans.

2. Control Valve - Per Plans.

3. Pressure Reducing Valve – Per Plans.

4. Emitter - Per Drawings.

E. Valve Boxes:

1. Drip Line Blow-out Stubs - Per Drawings.

2. Drip Valve Assemblies - Per Drawings.

3. Control Wiring Splices - Carson #910-12, Brooks #1100 or as shown on the Drawings.

F. Electrical Control Wiring:

1. Low Voltage:

a. Electrical Control Wire - AWG UF UL approved No. 14 direct burial copper wire or larger, if required to operate system as designed. Control wire for restored irrigation system components shall match the existing wire or as approved.
b. Wire Colors:
   i. Control Wires – Red
   ii. Common Wires – White
c. Control wire connections and splices shall be made with 3M direct bury splice, Rainbird Pentite connectors, or similar dry splice method.

G. Automatic Controller - Existing.

H. Electric Drip Valves - Size and type shown on Drawings. Solenoid shall be compatible with existing controller and control wiring used on the project.

PART 3 EXECUTION

3.01 INSPECTION

A. Staking shall occur as follows:

1. Mark, with powdered lime, routing of pressure supply line and flag heads for first

few zones. Contact City Representative 48 hours in advance and request review of staking. City Representative will advise installer as to the amount of staking to be prepared. City Representative will review staking and direct changes if required. Review does not relieve installer from coverage problems due to improper placement of heads after staking.

2. If Project has significant topography, free-form planting beds, or other amenities that could require alteration of irrigation equipment layout as deemed necessary by City Representative, do not install irrigation equipment in these areas until City Representative has reviewed equipment staking.

3. Install sleeving under asphalt paving and concrete walks, prior to concreting and paving operations, to accommodate piping and wiring. Compact backfill around sleeves to 95% Modified Proctor Density within 2% of optimum moisture content in accordance with ASTM D1557.

4. Trenching - Trench excavation shall follow, as much as possible, layout shown on Drawings. Dig trenches straight and support pipe continuously on bottom of trench. Trench bottom shall be clean and smooth with all rock and organic debris removed.

    a. Clearances:
        i. Piping Smaller than 3 Inches - Trenches shall have a minimum width of 7 inches.
        ii. Line Clearance - Provide not less than 6 inches of clearance between each line, and not less than 12 inches of clearance between lines of other trades.
    b. Pipe and Wire Depth
        i. Pressure Supply Piping - 18 inches from top of pipe.
        ii. Control Wiring - Side of pressure main

3.02 INSTALLATION

A. Locate other equipment as near as possible to locations designated. City Representative shall review any deviations to Drawings prior to installation.

B. PVC Piping - Snake pipe in trench as much as possible to allow for expansion and contraction. Do not install pipe when air temperature is below 40°F. When pipe laying is not in progress, or at end of each day, close pipe ends with tight plug or cap. Perform work in accordance with good practices prevailing in piping trades.

C. Solvent Weld PVC Pipe - Lay pipe and make all plastic to plastic joints in accordance with manufacturer's recommendations.

D. Drip Tubing:

    1. Install all drip tubing per the Drawings before installation of mulch.

    2. Install drip line blowout stubs at all dead ends of emitter laterals.

E. Control Wiring

1. Low Voltage Wiring:

a. Bury control wiring between the existing wire junction box and electric valves in trench condition with a minimum of 18” cover. Install warning tape 6” above new control wires.
b. Bundle all 24-volt wires at 10-foot intervals and lay with pressure supply line pipe to one side of the trench.
c. Provide an expansion loop at every pressure pipe angle fitting, every electric control valve location (in valve box), and every 500 feet. Form expansion loop by wrapping wire at least 8 times around a 3/4-inch pipe and withdrawing pipe.
d. Make all splices and E.V.C. connections using Rainbird Pentite connectors or similar dry splice method.
e. Install all control wire splices not occurring at control valve in a separate splice valve box.
f. Install control wire for each control valve.

F. Automatic Controller

1. Automatic controller is existing, connect new remote control valve to controller in continued sequence and number valve box.

2. All above ground conduits shall be rigid galvanized with appropriate fittings.

G. Electric Control Valves - Install 3 inches below finished grade where shown on Drawings and as detailed. When grouped together, allow at least 12 inches between valve boxes. Install each remote control valve in a separate valve box. Install individual valve box flush with ground. Place gravel in bottom of each box below valve with a minimum of 2 cubic feet of 3/4 inch crushed gravel.

H. Drip Valve Assemblies - Install drip valve assembly as detailed.

I. Drip Emitters - Install all surface emitters as detailed and stake with acceptable tubing stakes.

J. Valve Boxes:

1. Install one valve box for each type of valve installed as detailed. Install gravel sump after compaction of all trenches. Place final portion of gravel inside valve box after valve box is backfilled and compacted.

2. Brand controller letter and station number of lid on each valve box. Letter and number size shall be no smaller than 1 inch and no greater in size than 1-1/2 inches. Depth of branding shall be no more than 1/8 inch into valve box lid.

K. Gate Valves - Install where shown on Drawings as detailed.

L. Backfilling - Do not begin backfilling operations until required system tests have been completed. Leave trenches slightly mounded to allow for settlement after backfilling is completed. Trenches shall be finish graded prior to walk-through of system by City Representative.

1. Materials - Excavated material is generally considered satisfactory for backfill purposes. Backfill material shall be free of rubbish, vegetable matter, and stone larger than 1 inch in maximum dimension. Do not mix subsoil with topsoil. Material not suitable for backfill shall be hauled away. Contractor shall be responsible for providing suitable backfill if excavated material is unacceptable or not sufficient to meet backfill, compaction and final grade requirements.

2. Do not leave trenches open for a period of more than 48 hours. Open excavations shall be protected in accordance with OSHA regulations.

3. Compact backfill to 90% maximum density, determined in accordance with ASTM D155-7 utilizing the following methods:

a. Mechanical tamping.
b. Puddling or ponding. Puddling or ponding and/or jetting is prohibited within 20'-0" of building or foundation walls.

M. Piping Under Paving:

1. Provide for a minimum cover of 18 inches between the top of the pipe and the bottom of the aggregate base for all pressure and non-pressure piping installed under asphaltic concrete or concrete paving.

2. Piping located under areas where asphalt or concrete paving will be installed shall be bedded with sand (a layer 6 inches below pipe and 3 inches above pipe).

3. Compact backfill material in 6 inch lifts at 90% maximum density determined in accordance with ASTM D155-7 using manual or mechanical tamping devices.

4. Set in place, cap and pressure test all piping under paving, in presence of City Representative prior to backfilling and paving operations.

N. Water Supply and Point of Connection - Water supply shall be extended as shown from water supply lines.

3.03 FIELD QUALITY CONTROL

A. Flushing - After piping, risers and valves are in place and connected, but prior to installation of emitters, thoroughly flush piping system under full head of water pressure from dead end fittings. Maintain flushing for 5 minutes through furthermost valves. Cap risers after flushing.

B. Testing - Notify 48 hours in advance and arrange for presence of City Representative in advance of all testing. Conduct tests in presence of City Representative. Supply force pump and all other test equipment.

1. After backfilling and installation of all control valves, fill pressure supply line with water and pressurize to 40 PSI over the designated static pressure or 120 PSI, whichever is greater, for a period of 2 hours..

2. Leakage, Pressure Loss - Test is acceptable if no leakage or loss of pressure is evident during test period.

3. Leaks - Detect and repair leaks.

4. Retest system until test pressure can be maintained for duration of tests.

5. Before final acceptance, pressure supply line shall remain under pressure for a period of 48 hours.

C. Substantial Completion/Pre-Plant Establishment Inspection

1. Arrange for City Representative's presence 48 hours in advance of walk-through.

2. Entire system shall be completely installed and operational prior to scheduling of walk-through.

3. Operate each zone in its entirety for City Representative at time of walk-through and, additionally, open all valve boxes if directed.

4. Generate a list of items to be corrected.

5. Furnish all materials and perform all Work required to correct all inadequacies of coverage due to deviations from contract documents.

6. During walk-through, expose all drip emitters under operations for observation by City Representative to demonstrate that they are performing and installed as designed; prior to placing of all mulch material. Schedule separate walk-through if necessary.

D. Final Maintenance Inspection:

1. Arrange for City Representative's presence 48 hours in advance of walk-through.

2. Show evidence that City Representative has received all accessories, charts, record Drawings, and equipment as required before Final Completion walk-through is scheduled.

3. Operate each zone, in its entirety for City Representative at time of walk-through to insure correction of all incomplete items.

4. Items deemed not acceptable by City Representative shall be reworked to complete satisfaction of City Representative.

5. If after request to City Representative for walk-through for Final Completion of irrigation system, City Representative finds items during walk-through that have not been properly adjusted, reworked or replaced as indicated on list of incomplete items from previous walk-through, contractor shall be charged for all subsequent walk-throughs. Funds will be withheld from final payment and/or retainage to contractor, in amount equal to additional time and expenses required by City Representative to conduct and document further walk-throughs as deemed necessary to insure compliance with contract documents.

3.04 ADJUSTING

A. Upon completion of installation, "fine-tune" entire system by regulating valves, adjusting drip-tubing ports , and setting pressure reducing valves at proper and similar pressure to provide efficient and adequate irrigation.

B. If it is determined that irrigation adjustments will provide proper and more adequate coverage, make such adjustments prior to Final Acceptance, as directed, at no additional cost to City. Adjustments may also include changes in control valve throttling.

C. Areas that do not conform to designated operation requirements due to unauthorized changes or poor installation practices shall be immediately corrected at no additional cost to the City.

3.05 CLEANING

Maintain continuous cleaning operation throughout duration of Work. Dispose of, off-site at no additional cost to Owner, all trash or debris generated by installation of irrigation system.

END OF SECTION

Section 02901

LANDSCAPING

All work shall comply with the most recent version of MAG Specifications and Details. In case of conflicts, the order of precedence shall be the City of Flagstaff Supplemental Specifications, these Technical Specifications, followed by the MAG Standard Specifications.

PART 1 - GENERAL

1.1 DESCRIPTION

A. Scope:
   1. Provide all materials, equipment, labor, and incidentals required for supplying and placing trees, shrubs, and plants; concrete edging, rock; and native seed, all as shown on the Drawings and specified herein.
   2. Types of products required include the following:
      a. Contractor-provided trees, shrubs and plants, including staking.
      b. Planting pit backfill mix from in-situ, imported or topsoil, amended as required.
      c. 3”-6” Rock (Table Mesa Brown) from Flagstaff Landscape Products or approved equal.
      g. Native seed and mulch.
      h. Soil amendments and conditioners.
   3. The Civil Drawings and Section 02810 have requirements that relate to the Work of this Section.
   7. Applicable publications listed below form a part of these Special Provisions to the extent referenced:
      1. American Association of Nurserymen, Inc. (AAN): American Standard for Nursery Stock (ASNS), 1986 Edition.
      2. American Joint Committee on Horticultural Nomenclature (AJCHN): Standardized Plant Names (SPN), Second Edition, 1942.
      3. Arizona Nursery Association Growers Committee (ANA): Recommended Tree Specifications, latest edition.

B. Coordination:
   1. Review the Work and procedures described under the civil Drawings and other Sections, and coordinate all Work required for the planting operation with that of other trades.

1.2 QUALITY ASSURANCE

A. All materials, products, and Work shall conform to the 2024 Revision to the 2020 Edition of the Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction (Standards), the contract documents (Drawings and these Special Provisions), and the City of Flagstaff Details 18-03-050 and 18-04-050. If there is a conflict between these references, the precedent governing order shall be the Details, the contract documents, then the Standards.

B. A single firm specializing in landscape installation and maintenance, with the appropriate State of Arizona contractor's license in force, and a minimum of five years of experience in the type of Work described in this Section.

C. Perform Work in accordance with all applicable laws, codes, and regulations required by authorities having jurisdiction over such Work and provide for all inspections and permits required by Federal, State, and local authorities in furnishing, transporting and installing materials as shown or for completing the Work identified herein.

E. The contractor may not work outside the established construction limits without the approval of the City Representative. Trees, individual shrubs and shrub masses, native grasses, topography, ground surface, and rock outcrops that occur outside of the limit of construction which are damaged or destroyed by the contractor during the Work (at the sole discretion of the City Representative) shall be replaced with equal-size, like-kind materials and provided water through the temporary irrigation system to be installed by the contractor at no additional cost to the project.

F. Finished grades of the landscaped areas within 10' of any sidewalk, pathway, or paved surface, inclusive of the stabilized granite path, shall have a vertical tolerance of ±0.1-foot from the specified and/or existing grade and cross-section.

H. Protect landscape Work and materials from damage due to landscape installation, operations by other contractors and trades, and trespassers. Maintain protection during installation and maintenance periods. Treat repair or replace contractor-damaged Work as directed by the City Representative. Remove all debris, trash, and excess materials generated by the Work of this Section.

I. The cost of water used for the landscape planting and/or restoration of the existing landscape is the contractor's responsibility, whether an on-site source is or is not used, until approval at the Substantial Completion inspection. The contractor shall provide written evidence to the City Representative that he/she has reached an agreement with the City of Flagstaff (City) on how to pay for water provided through the existing Bushmaster Park system.

J. Except as noted in the Standards, plantings (or their replacements) shall have a 100% survivability through the completion of the Plant Establishment and Warranty and Guarantee Period.

1.3 SUBMITTALS

A. Shop Drawings: Submit for approval the following:
   1. Submit the planting schedule, indicating dates for each type of landscape Work during landscape installation. Correlate with specified planting and maintenance periods to provide maintenance through the Plant Establishment Period. Once accepted, revise dates only as approved in writing, after documentation of reasons for a delay
   2. Manufacturer's specifications and installation instructions for all materials required.

B. Test Reports: Submit for approval the following:
   1. An analysis made by an approved laboratory stating the fertility analysis of representative samples of the imported and in-situ soil utilized in the planting areas.
   2. Include recommendations for amending the analyzed soils into an acceptable growing medium and as a component of planting backfill mix.

C. Certificates: Submit for approval the following:
   1. Ship materials with Certificate of Inspection required by governing authorities. Before delivery, Certificates of Compliance shall be submitted, certifying that materials meet the requirements specified. Certified copies of the reports for the following materials shall be submitted:
      a. Native seed mix, hydromulch, and tackifying agent
      b. Backfill amendments, fertilizers, and conditioners
      c. 3”-6” Rock (also submit 5-gallon sample)
   2. The seed mix certificate shall include seed vendor’s certified statement for the seed mixture required, stating botanical and common name, net weight, percentages by weight, and percentages of purity, germination, and weed seed for each seed species
   3. For standard products, submit other data certifying that materials comply with specified requirements.
   4. The Certification shall indicate the supplier’s name, address, telephone number, date of purchase, name and technical description of the item purchased, and quantity of each item purchased.
   5. Material samples shall be forwarded in a single package to the City Representative within three weeks after the Notice To Proceed. Soils test results shall accompany the samples of the materials.
   6. The City Representative reserves the right to take and analyze samples of materials for conformity to these Special Provisions at any time. Contractor shall furnish samples upon request. Rejected materials shall be immediately removed from the site at the contractor’s expense. The contractor shall pay the cost of removing materials, not meeting Special Provisions.

D. Care and Maintenance Data: Submit the following:
   1. Report with instructions recommending procedures to be established by City for full care, vigorous growth, and maintenance of each category of plant specified, with specific recommendations for the type of care, insect, and disease prevention for each quarter of the year.
   2. Submit prior to the expiration of landscape establishment period.
   3. Provide suggested monthly watering schedule for establishment and maintenance of each planting type. The watering schedule shall attempt to account for seasonal temperature change and its effect on each type of planting.

1.4 QUALITY ASSURANCE

A. Installer Qualifications:
   1. Assign at least one person to serve as Project Supervisor. This person shall be thoroughly familiar with the materials, equipment, and techniques of the

planting operation, and shall be on-site at all times to direct the Work described in this Section.

2. All herbicide/pesticide applicators shall be properly licensed by the Registrar of Contractors and for application of non-restricted use chemicals by the Pest Management Division (PMD) of the Arizona Department of Agriculture Furnish a copy of the applicator's license, which shall list the names of those employees, approved as applicators by the PMD. Application of non-restricted use pesticides shall not take place until the City Representative receives a copy of the application.

B. Soil-Testing Laboratory Qualifications:
   1. An independent laboratory with the experience and capability to conduct testing indicated and that specializes in types of soil tests to be performed.

C. Soil Analysis: As soon as possible after all or portions of site becomes available for landscaping, contract with a licensed soils lab to analyze a minimum of one (1) soil sample (0-1 foot depth) of the existing in-situ soil or one (1) cubic foot of imported soil as applicable for agricultural fertility analyses as approved by the City Representative. The soil analysis shall include all characteristics necessary to make fertility recommendations for landscape, lawn, and garden applications. Perform and include a soil analysis in the report showing parts per million (ppm) of Ca, Mg, Na, K, Fe, Zn, Mn, Cu, nitrate, nitrogen, and phosphorus at the test locations. The report shall also include levels of salinity, pH, sodium, and free lime. Also, recommendations for soil amendments to correct any nutrient deficiencies, to eliminate conditions detrimental to plant growth, and to improve soil fertility. Provide the test results and recommendations to the City Representative for review.

   If, in the opinion of the City Representative, the testing warrants a change in the soil amendments, the City Representative may request a proposal for incorporating the additional/substituted amendments into the Project. At the sole discretion of the City Representative, changes to soil amendments from those shown in these Drawings and Special Provisions may be paid for through an adjustment in the contract price for the affected items as approved by the City Representative.

D. The analysis shall include all testing necessary to identify compliance with these Special Provisions.

E. The City Representative reserves the right to take and analyze samples of materials for conformity to the Special Provisions at any time. Rejected materials shall be immediately removed from the site at the contractor's expense. The contractor shall pay the cost for all testing and the removal and replacement of materials not meeting the Special Provisions.

1.5 PRODUCT DELIVERY, STORAGE, AND HANDLING

A. Delivery of Materials:
   1. Prior to delivery of any plant material to the Project site, the contractor shall make the necessary arrangements with the City Representative for an inspection of the plant material at the source. The contractor will pay for each trip to nurseries located greater than 30 miles from the Project area.

Any plants found to be unsuitable in growth or condition, or plants that are not true to the specification, shall be removed and replaced with acceptable ones.

2. The contractor shall notify the City Representative at least 72 hours in advance for inspection of the plant material at the off-site location. Prior to notification of the City Representative, the contractor shall physically verify that the plant materials meet the size specified. Subsequent to the delivery of the plants to the site, the City Representative shall, at his option, re-inspect the plant material. Plants that do not meet the requirements herein shall be removed from the site and new material provided until the replacement plants have been accepted.
3. Deliver each type of plant as the Work progresses, after preparations for planting that specific type of plant is completed, and when plants will be planted immediately upon arrival at the site. Do not stockpile plants on-site.
4. Deliver packaged materials in original, unopened containers, legibly showing weight, analysis, and name of the manufacturer. Protect materials from deterioration during delivery. Provide protective covering.
5. Do not drop plants during delivery.
6. Immediately remove unacceptable material from the site.

B. Storage of Materials:
   1. If planting is delayed more than six hours after delivery, set plants in the shade. Protect from weather and mechanical damage and keep roots moist.
   2. Store and cover materials to prevent deterioration. Remove packaged materials that have become wet, or show deterioration or watermarks, from site.

C. Handling of Materials:
   1. Do not remove container-grown plants from containers until planting time.
   2. Do not lift or drag plants by stems or trunks. Handle plants by lifting root ball or container.
   3. Water as necessary to maintain plant root systems in a viable condition.

1.6 PROJECT CONDITIONS

A. Existing Conditions:
   1. Obstructions Below Ground and Utilities: Comply with MAG and Arizona 811 requirements as related to the staking of underground utilities. Determine the location of underground utilities through Arizona 811 or other approved methods and perform Work in a manner that will avoid possible damages. Maintain stakes by others until removal is mutually agreed upon by the affected parties. Hand excavate as required when working in close proximity to any underground utilities. At no additional cost to the Project, repair any damages to staked utilities.

   2. Subsurface Soils: The Project area in-situ soils may have a hard rock subsurface. The contractor shall review the site conditions to satisfy his/her understanding of the conditions at the Work locations. Because of the subsurface rock, more robust equipment may be required to complete the Work. If encountered, install drainage chimney per the Drawings and/or as directed, All excess debris and materials, including material excavated from

the planting activities, shall become the property of the contractor and shall be removed from the site.

B. Environmental Requirements:
   1. Proceed with and complete the Work as rapidly as portions of the site become available and as agreed upon in the approved Project schedule.
   2. Apply chemical insect and disease measures locally and specifically to the area and type of planting in need of such insect and disease control, as recommended by the herbicide/pesticide applicator
   3. Plantings exhibiting a broad and/or a heavy infestation of insects or diseases, or where insects or diseases have disfigured plantings so that they no longer provide their intended purpose or aesthetic effect, shall be replaced with new plantings.

C. Scheduling:
   1. Coordinate the plantings with the development of the temporary irrigation system and the permanent irrigation restoration installations so that no plantings skip more than one irrigation cycle once installed.
   2. Do not begin planting until water, acceptable for use and adequate in supply, is available on-site and can be successfully transported to the areas of Work. Coordinate the provision of adequate and acceptable water supply with Project Schedule.
   3. Plant after final grades have been established, unless otherwise acceptable to City Representative.

1.7 WARRANTY

A. General Warranty: Warranty, guarantee, and maintenance shall be as described in the Plant Establishment Maintenance and Guarantee subsection of these Special Provisions.

PART 2 - PRODUCTS

2.1 PLANTS

A. Plants shall mean all trees, shrubs, and groundcover required to comply with the Contract Documents. They shall be contractor-provided nursery grown from a local source or grown in similar climatic conditions to the Project site.

B. All plants shall be representative of their normal species or varieties. Unless otherwise specified, plants shall have average or normally developed branch systems and vigorous root systems. Plants shall be free from scale, disfigured knots, sun scale injuries, abrasions of the bark, rough/craggy bark, or other objectionable blemishes. Weak plants will not be accepted. Plants shall show the appearance of normal health and vigor in strict accordance with these Special Provisions.

C. Tree sizes shall conform to the Arizona Nursery Association's recommended average tree specifications or as shown on the Drawings.

D. Plants with undeveloped, loose, or broken rootballs will not be accepted.

E. Rootbound plants will not be accepted.

2.2 BLUEGRASS SOD

A. Sod shall be 80-90% Kentucky Bluegrass (*Poa pratensis*) with a maximum of 20% Perennial Ryegrass (*Lolium perenne*) unless otherwise approved by the City Representative. Provide strongly rooted sod, not less than two years old, free of weeds and undesirable native weeds. Machine cut to pad thickness of ¾", excluding top growth and thatch. Provide only sod capable of vigorous growth and development when planted. Sod shall be provided in pads of uniform size with a maximum 5% deviation in size when suspended vertically with a firm grasp on the upper 10% of the pad.

2.3 BACKFILL MIX, SOIL AMENDMENTS, AND CONDITIONERS

A. Per Details 18-03-050 and 18-04-050, excavated soil generated through the planting activities is the preferred primary component of the backfill mix used on the Project. However, excavated in-situ soil may contain substantial rock pieces that are not desired in the backfill mix, thereby possibly requiring the use of materials from alternative sources. Topsoil, salvaged surface soil, or imported soils, modified as required per the soils analysis described herein, may be used on the project. Topsoil and/or imported soil used in the planting operation shall not have a pH factor greater than 7.0. The contractor may elect to generate the backfill mix using a combination of sources if approved by the City Representative.

B. The gradation and composition of the backfill mix shall be similar to a 1-foot deep grab sample of surface soils taken at a location within the Bushmaster Park approved by the City Representative.

C. Backfill shall not have rocks or stones greater than 2" in any dimension.

D. The City Representative may waive, at his/her sole discretion, variations to the backfill requirements if they are of benefit to the Project.

E. Amendments and conditioners shall meet Section 795 of the Standards, as shown on the Drawings, and as described in these Special Provisions.

F. Additional fertilizer/amendments, as recommended by contractor's soils laboratory.

2.4 ORGANIC SOIL AMENDMENTS

A. Amendments to be incorporated into the backfill mix and for soil preparation for sod shall meet Section 795 of the Standards and as shown on the Drawings. Cow manure is not permitted for use on the Project.

2.5 CHEMICAL CONDITIONERS AND FERTILIZERS

A. Conditioners and fertilizers to be incorporated into the backfill mix shall meet Section 795 of the Standards and as shown on the Drawings. The contractor shall recommend the N-P-K ratios for the fertilizers to be used.

2.6 TREE STAKES, GUYS, AND TIES

A. Stake trees as shown on the Drawings.

B. The City Representative has the final approval of all staking and tying methods.

2.7 3"-6" ROCK (Table Mesa Brown)

A. Rock shall meet the gradation requirements of the rock producer and the approved sample.

2.8 CONCRETE EDGE

A. Concrete shall MAG Class B.

B. The edge is to be installed and accepted prior to the installation of adjacent rock.

2.9 NATIVE SEED

A. Seed mix shall consist of the following varieties, and shall be applied at the rates shown below:

Botanical Name	Common Name	PLS Pounds/Acre
x Triticosecale	Triticale (nurse crop)	7.5
Pascopyrum smithii	Western Wheatgrass	3.0
Bromus ciliatus	Fringed Brome	3.5
Elymus trachycaulus	Slender Wheatgrass	1.5
Poa fendleriana	Muttongrass	1.0
Bouteloua gracilis	Blue Grama	1.0
Festuca arizonica	Arizona Fescue	2.0
Achillea millefolium	Western Yarrow	0.1
Heliomeris multiflora	Showy Goldeneye	0.2
Eschscholzia californica	California Poppy	0.5
Rudbeckia hirta	Black-eyed Susan	0.15

PART 3 - EXECUTION

3.1 GENERAL

A. Prior to all Work of this Section, carefully inspect the installed Work of all other trades and verify that all such Work is complete to the point where this installation may commence. Also, the contractor shall verify the location and

depth below ground level of all utilities, footing, underground piping, and conduit by calling Arizona 811.

B. Verify that planting may be completed in accordance with the design and references.

C. Planting areas shall not be cultivated when they are so dry as to cause excessive dust or so wet as to cause the formation of large clods.

3.2 PREPARATION

A. Protect structures, utilities, sidewalks, pavements, and other facilities and existing exterior plants from damage caused by planting operations.

B. Layout the individual tree, shrub, and groundcover locations and areas for multiple plantings. Stake locations, outline areas, adjust locations when requested, and obtain City Representative's acceptance of layout before planting. Make minor adjustments as required.

3.3 TURF SOIL PREPARATION

A. The contractor shall flag the area to be sodded and coordinate the subgrade preparation with the general excavation activities to provide preparation for all areas to receive sod.

B. Unless recommended otherwise by the soil tests, provide the following soil amendments and fertilizer for the sod areas:
   a. Three (3) cubic yards of Wood Derivatives (MAG 795.4.4) per 1,000 square feet
   b. Ammonium phosphate with an N-P-K value of 16-20-0, or as indicated in the soil tests
   c. Top-dress fertilizer as approved for post-installation use

C. Soil amendments and fertilizers shall be incorporated into the subgrade area by tilling, discing, dragging, or other means approved by the City Representative that loosen the seedbed area and produces a condition for successful root development.

B. City Representative shall inspect and approve final grading after incorporating soil amendments. Contractor is responsible for vertical control.

C. Moisture Content: The sod area is not to be worked when the moisture content is so great that excess compaction will occur, nor when it is so dry that dust will form in the air or that clods will easily break. Water shall be applied, if necessary, to provide ideal moisture content for tilling, dust control, and for planting.

D. Rake and remove all rock, clods, and debris larger than 1" diameter from the finished grades.

E. Finished grade shall be firm and smooth, free of undulation, and any other irregularities to a minimum of ½" of the proposed grade or cross section.

F. Water settle and saturate the turf area prior to installing sod.

G. After final grade preparation, no heavy objects except lawn rollers shall be operated over these areas.

3.4 BLUEGRASS SOD

A. Sod thickness shall be considered when adjacent to hardscape elements. Prepare all edge conditions to accommodate sod thickness and to ensure a level transition (flush) between sodded lawn and nearby walks, curbs, fence lines, turf edges, etc.

B. Place sod strips parallel to each other with staggering joints, lay perpendicular-to-slope when possible. Install with tight-fitting joints.

C. Roll in two (2) directions after an initial watering to create uniform grade and eliminate any irregularities. Use care not to over-water and create saturated conditions. After rolling, water thoroughly to penetrate subsoil at least 2-4-inches. Repeat watering at regular intervals to keep material moist.

D. Finish grade between the newly planted sod and existing turf shall be smooth, level, and without any irregularities. The line of transition between new sod and existing lawn shall be straight and consistent, avoiding any visible horizontal or vertical anomalies. Sod installation shall not impede drainage or create ponding conditions.

3.3 TREE, SHRUB, AND GROUNDCOVER EXCAVATION

A. Pits: Excavate the plant pits per the Drawings. Scarify sides of plant pit. Dispose of excess excavated material removed from pits or at an on-site location agreed to by the City Representative.

B. Obstructions: Notify City Representative if rock or obstructions detrimental to trees or shrubs are encountered in excavations. If necessary, the City Representative will issue guidance on where to relocate plants to a suitable location within the Project area.

C. Drainage: Notify City Representative if subsoil conditions evidence unexpected water seepage or retention in planting pits. Unless relief is granted by the City Representative, construct drainage chimney as shown on the Drawings.

3.4 TREE, SHRUB, AND GROUNDCOVER PLANTING

A. Set plants plumb and in center of the pit with top of root ball set such that it will be at the finished grade shown on the Drawings after backfill has settled.
   1. Carefully remove the rootball from the container or burlap without damaging root ball or plant. Fully remove burlap, nylon, pallets, containers, or side boxes before backfilling. Do not handle container plants by foliage, branches, or trunks.

2. After removing plants from containers, scarify side of rootball to eliminate root bound condition. Do not plant stock if rootball is cracked or broken. When set, place backfill mix around the plant and stake/brace per the Drawings and these Special Provisions. Work each layer to settle backfill and eliminate voids and air pockets. When excavation is approximately 2/3 full, water thoroughly before placing the remainder of backfill. Repeat watering until no more is absorbed. Water again after placing the final layer of backfill.
3. Remove all soil from around the base of each plant stem and from the top of the root ball to ensure that rootball is at the planned finished grade.

3.5 BACKFILLING

A. All trees, shrubs, and groundcovers shall be backfilled with a backfill mix shown on the Drawings.

3.6 TREE AND SHRUB PRUNING

A. Prune, thin out, and shape nursery-grown trees in accordance with standard horticultural practice. Prune trees to retain required height and spread. Unless otherwise directed by City Representative, do not cut tree leaders. Remove only injured or dead branches from flowering trees, if any. Prune to retain the natural character and accomplish their use in the landscape design. Required tree sizes are the size after pruning. Remove all dead wood, suckers, and broken and badly bruised branches.

B. Remove and replace excessively pruned or misformed stock resulting from improper pruning.

C. Paint cuts over 1/2-inch in size with standard tree wound compound, covering exposed, living tissue.

D. All pruning wounds shall show vigorous bark on all edges at the time of harvest.

3.7 GUYING AND STAKING

A. All trees shall be staked per the Drawings immediately after planting.

B. Set stakes vertically and spaced to avoid penetrating balls or root masses. Place tree ties for maximum support with top tie above scaffold branches and second ties midway to the ground level. Avoid "rigid" restraint of tree and allow for some trunk movement.

C. Stakes shall penetrate at least 18-inches below the bottom of the backfilled excavation and extend at least 72-inches above grade. Set vertical stakes and space to avoid penetrating root balls or root masses.

3.8 3”-6” ROCK

A. Stake out for approval all areas to receive rock. Make adjustments in the boundaries and concrete edge as directed by the City Representative.

B. The subgrade shall be graded to the proper depth and compacted prior to the placement of any rock. Rock pieces larger than 2” in diameter, within the top 1” of subgrade soil, shall be removed and properly disposed of. Prepare the ground surface immediately before applying pre-emergent.

C. Prior to placing rock, all areas are to receive pre-emergent herbicide. Do not apply herbicide on any areas designated to receive seeding. Apply pre-emergent in strict compliance with manufacturer’s recommended dosages and application instructions.

D. A second application of pre-emergent shall be applied after placement of the rock. Water spray rock to remove dust and to produce the desired surface character.

3.9 CONCRETE EDGE

A. Stake out the concrete edge horizontal and vertical alignment for approval. Make adjustments as directed by the City Representative.

3.9 NATIVE SEED

A. Native seed shall be installed in accordance with Section 430.7 of the Standards.

4.0 PLANT ESTABLISHMENT GUARANTEE AND MAINTENANCE (PLANT ESTABLISHMENT PERIOD) ACCEPTANCE CRITERIA

A. Add the following to the City Standards Subsection 430.3.
   1. The Plant Establishment Period shall be 90 days.
   2. Warranty all plant material after acceptance of landscape installation at the Substantial Completion inspection for one (1) year against defects including death and unsatisfactory growth, except for defects resulting from neglect by the City, vandalism, abuse or damage by others, or unusual phenomena or incidents which are beyond contractor's control. Remove and replace plant material found to be dead or in unhealthy condition at any time during the warranty period or as directed by the City Representative. Replace plant material that is in doubtful condition at the end of warranty period, unless, in the opinion of City Representative, it is advisable to delay replacement. If a replacement is delayed, another inspection will be conducted at an agreed-upon date to determine acceptance or rejection.
   3. Only one replacement (per tree, shrub, or groundcover) will be required during the warranty period, except for loss or replacements due to failure to comply with specified requirements.
   4. There are no limitations to the number of replacements during the Plant Establishment Period except for damage, unusual phenomena, or incidents noted above that are out of the contractor’s control. Replacements made during the Plant Establishment Period shall be completed within seven (7) days of written notice from the City Representative in accordance with the Drawings and Special Provisions. The City Representative shall approve replacement material prior to planting. Unless otherwise authorized, the contractor shall maintain all landscaping during the Plant Establishment

Period on a continuous basis as it is completed during the course of the Work and until final acceptance by the City Representative. Maintenance shall include control of noxious and undesirable weeds and vegetation or pest infestations that would jeopardize the growth of planted materials, fertilization as needed, and cultivating the planting areas. Remove dead or damaged plants within seven days of notification. Replacements shall be of the same kind and size as originally specified and shall be installed as shown on the Drawings and as described in these Special Provisions. Replacement of dead or damaged plants that are the result of vandalism will be measured and paid for separately as approved by the City Representative.

5. After planting, the landscape areas shall be maintained in accordance with these Special Provisions and Subsection 430 of the Standards. Plants shall be kept in a healthy, growing condition by watering, pruning, spraying, weeding, and any other necessary operation of maintenance. Plant saucers and beds shall be kept free of weeds, grass and other undesirable vegetation. Pruning and restaking are to include removal of any growth conflicting with vehicular or pedestrian movement.
6. Plants shall be inspected by the contractor at least once every two weeks and appropriate maintenance performed. The City Representative will conduct monthly inspections which the contractor is expected to participate in to observe the installation work.
7. The contractor shall warranty sodded areas until accepted by the City Representative. At the Substantial Completion inspection, the City Representative will make an inspection to determine the turf installation acceptability. The sodded areas shall have been mowed at least twice prior to the Substantial Completion inspection. The turf will be acceptable provided requirements, including maintenance, have been complied with; a vigorous, healthy, well-rooted turf is established, free of weeds; no bare areas greater than 2" in diameter, and there are no surface irregularities within the turf areas. This guarantee/warranty will not be enforced should the turf die or be damaged due to vandalism; fire; flood; or hail; force majeure; or other similar circumstances; detrimental activities undertaken by City personnel such as over- or under- watering or over-fertilization, which are beyond the control of the contractor.

   Begin maintenance of turf immediately after each area is planted and continue until the lawn is established and accepted. Maintenance and Establishment Period of turf areas shall extend from initial sod installation to the second mowing unless the establishment period has been extended by the City Representative. Immediately after the second mowing is complete the contractor shall inspect the turf area with the City Representative to determine final completion and turnover of maintenance activities to the City. Mow turf as soon as there is enough top growth to cut with the mower set at the height specified by Madison Heights Elementary School facilities representatives. Remove no more than 40% of grass leaf growth in initial or subsequent mowings. Do not delay mowing until the grass blades bend over and become matted. Do not mow when the grass is wet. Time initial mowing to maintain specified grass height. Prior to final acceptance, a topdressing fertilizer shall be applied to lawn areas during the growing

season at a rate of (1) pound of actual nitrogen per 1,000 square feet of lawn area.

8. The contractor shall maintain the existing and permanent irrigation systems and make any necessary repairs regardless of cause to assure a complete and operational system as originally designed and constructed. Repairs shall be made within 48 hours of detection. The contractor shall notify the City Representative immediately if the repairs are a result of damage and vandalism by others; irrigation repairs that are the result of vandalism will be measured and paid for separately as directed by the City Representative.
9. If the landscape and sod areas are improperly maintained, if appreciable plant replacement is required (for whatever reason), if corrective Work is required for the operation of the irrigation system, or if other corrective Work is necessary, the Plant Establishment Period may be extended at the sole discretion of the City Representative. The contractor shall continue to maintain the entire site at no increased cost until final acceptance by the City Representative.
10. Chemical mixing and method of application for weed control shall be done in the presence of the City Representative. Chemical applications for weed control are not applicable to areas that have been seeded; hand or mechanical weed removal is required in those portions of the construction limits.
11. Substantial Completion Inspection: A pre-Plant Establishment Period inspection will be performed upon substantial completion of the Work under this Section. The contractor shall notify the City Representative within five days of inspection to arrange the schedule. The City Representative, contractor and such others as the City Representative shall direct, shall be present at the inspection. The City Representative shall issue the effective beginning date for the Plant Establishment Period for all or portions of the landscaping (lots). It is expected that the lots can/will have separate start dates for the lots identified above. Work requiring corrective action in the judgment of the City Representative shall be performed within five days after the Substantial Completion inspection. Corrective Work and materials replacement shall be in accordance with the Drawings and Special Provisions and shall be made at no cost to the Project.
    When inspected Work does not comply with requirements, replace rejected Work and continue specified maintenance until re-inspected by City Representative and found to be acceptable. Remove rejected plants and materials promptly from the Project area. If, after the inspection, the City Representative is of the opinion that all Work has been performed as per the Drawings and Special Provisions, and that all plant materials are in satisfactory growing condition, he/she will give the contractor written notice of acceptance of the installation Work and commencement of the Plant Establishment Period.
12. Final Landscape Establishment Period Inspection: At the end of the Plant Establishment Period, a final inspection will be performed to accept the Work under this Section. At the time of final maintenance inspection, all planting areas under this contract shall be free of weeds and neatly cultivated. All plants shall be alive and healthy, without signs of stress. Granite shall be free of rills, rivulets, or erosion. At the end of the Plant Establishment Period, an inspection will be made by the City Representative in the presence of the contractor to substantiate that the completed Work is

in compliance with the requirements of the Project. At the City Representative's option, the acceptance period for replacements and/or individual plants in question at the end of the Plant Establishment Period may be extended for up to one month before a final determination is made, without additional cost to the Project. Replacements will be governed by these Special Provisions as if they were new installations. Work requiring corrective action or replacement in the judgment of the City Representative shall be performed within seven (7) days after the final inspection. Corrective Work and materials replacement shall be in accordance with the Drawings and these Special Provisions and shall be made by the contractor at no additional cost to the Project. If, after the inspection, the City Representative is of the opinion that all Work has been performed as per the Drawings and Special Provisions and that all plant materials are in satisfactory growing condition, he/she will give the contractor written notice of final acceptance of the Work which satisfies the contract requirements of this Section.

5.0 CLEANUP AND PROTECTION

A. Protect plants from damage due to landscape operations, operations by other CONTRACTORs and trades, and others. Maintain protection during installation and extended service periods. Treat, repair, or replace damaged planting or sod.

B. Protection includes all temporary fences, barriers, and signs and other Work incidental to proper maintenance.

6.0 INSPECTION AND ACCEPTANCE

A. Where installed materials do not comply with specified acceptance criteria, replace plants and sod, and continue extended service period until installation complies with criteria for acceptance.

END OF SECTION

CITY OF FLAGSTAFF
AMENDMENTS
to
MAG STANDARD SPECIFICATIONS
FOR PUBLIC WORKS CONSTRUCTION
(General Provisions)

The
MAG UNIFORM STANDARD SPECIFICATIONS
for
PUBLIC WORKS CONSTRUCTION
is hereby amended to include the following:

PART 100 - GENERAL CONDITIONS

SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS

102.1 ELIGIBILITY AND PREFERENCE:
(revise to include the following)

If requested by the City, a Bidder shall furnish satisfactory evidence of the Bidder's competency to perform the proposed work. Such evidence of competency, unless otherwise specified, shall consist of statements covering the Bidder's experience on similar work, a list of equipment that would be available for the work and a list of key personnel that would be available.

In addition, if requested, a Bidder shall furnish the City of Flagstaff with satisfactory evidence of the Bidder's financial responsibility. Such evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the Bidder's financial resources and liabilities as of the last calendar year or the contractor's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the Bidder shall further certify whether the Bidder's financial responsibility is approximately the same as stated or reported by the public accountant. If the Bidder's financial responsibility has changed, the Bidder shall qualify the public accountant's statement or report to reflect the Bidder's true financial condition at the time such qualified statement or report is submitted to the City of Flagstaff.

The Bidder shall submit such "evidence of competency" and "evidence of financial responsibility" to the City of Flagstaff no later than five (5) working days after receipt of a written request by the City of Flagstaff.

Each bidder, contractor and subcontractor shall possess and maintain the appropriate contractor's license for the work included in this contract. The appropriate license shall be as required by the Arizona State Registrar of Contractors and as required by Arizona Revised Statutes Chapter 10, Title 32.

102.2 CONTENTS OF PROPOSAL PAMPHLET:
(revise to include the following)

The Plans, Specifications and other Documents designated in the Contract Documents shall be considered a part of the Contract whether attached or not.
The City of Flagstaff reserves the right to refuse to issue a proposal form or accept a proposal form from a prospective Bidder if they are in default for any of the following reasons:

(A) Failure to comply with any prequalification regulations of the City of Flagstaff, if such regulations are cited or otherwise included in the Proposal as a requirement for bidding;

(B) Failure to pay or satisfactorily settle all bills due for labor and materials on former contracts in force (with the City of Flagstaff) at the time the City of Flagstaff issues the Proposal to a prospective Bidder;

(C) Contractor, as a company owner, has defaulted under previous contract(s) with the City of Flagstaff in the prior five calendar years;

(D) Record of unsatisfactory work on previous contract(s) with the City of Flagstaff in the prior five calendar years.

102.2 CONTENTS OF PROPOSAL PAMPHLET:
(third paragraph, revise last sentence to read as follows)

The work embraced herein shall be done in accordance with the requirements of:

City of Flagstaff Amendments to MAG Standard Specifications for Public Works Construction (General Provisions).

City of Flagstaff (City) Engineering Standards (Current Version and adopted revisions).

Maricopa Association of Governments (MAG), *Uniform Standard Specifications for Public Works Construction*, Current Version (MAG Specifications).

MAG *Standard Details for Public Works Construction,* Current Version and adopted revisions (MAG Details).

Arizona Department of Transportation (ADOT) Standard Specifications for Road and Bridge Construction, Current Version and adopted revisions.

In the case of conflict, the following order of precedence shall govern:

1. Special Provisions
2. Construction Plans and Addenda
3. General Provisions and MAG Revisions
4. City of Flagstaff Standards and Specifications
5. MAG Standards and Specifications
6. ADOT Standards and Specifications
7. FHWA Manual of Uniform Traffic Control Devices

102.4 EXAMINATION OF PLANS, SPECIAL PROVISIONS AND SITE OF WORK:
(revise to include the following)

Before submitting a bid, each bidder shall examine the site and obtain information that pertains to the physical conditions of the site that may affect the cost, progress or performance of the work. Any restrictions or difficulties relating to the completion of the work shall be considered in accordance with the terms and conditions of the contract documents.

102.7 IRREGULAR PROPOSALS:
(revise to include the following)

The City of Flagstaff reserves the right to reject any irregular Proposal and the right to waive technicalities for acceptance of Proposals, if such waiver is in the best interest of the City of Flagstaff and conforms to local laws and ordinances pertaining to the letting of construction contracts.
Proposals shall be considered irregular for the following additional reasons:

(A) If the Proposal contains unit prices that are obviously unbalanced.

(B) If the Proposal is not accompanied by the proposal guaranty specified by the City.

102.12 DISQUALIFICATION OF BIDDERS:
(revise to include the following)

A Bidder shall also be considered disqualified if the Bidder is considered in default for any reason specified in Subsection 102.2 as amended by this MAG Amendment.

102.13 SUCCESSFUL BIDDERS:
(revise paragraph to read as follows)

The City of Flagstaff shall provide six (6) sets of plans and Contract Documents at no cost. A direct expense fee shall be charged for any additional copies.

SECTION 103 - AWARD AND EXECUTION OF CONTRACT

103.6 CONTRACTOR'S INSURANCE:

103.6.1 GENERAL:

(revise subsection to read as follows)

The Contractor and its Subcontractors, at Contractor's and Subcontractors' own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of A-, 7, or approved by the City. The insurance company shall be licensed in the State of Arizona. Policies and forms shall be satisfactory to the City.

All insurance required herein shall be maintained in full force and effect until all work and/or services required to be performed, under the terms of the Contract, are satisfactorily completed and formally accepted. At the sole discretion of the City, failure to do so may constitute a material breach of this Contract.

The Contractor's insurance shall be primary insurance as respects the City. Any insurance or self-insurance maintained by the City shall not contribute to it.

Contractor shall not fail to comply with the claim reporting provisions of the insurance policies or cause a breach of any insurance policy warranty that would affect coverage afforded under insurance policies to protect the City.

The insurance policies (except Worker's Compensation) shall contain a waiver of transfer of rights of recovery (subrogation) against the City, its agents, representatives, directors, officers, and employees for any claims arising out of the Contractor's acts, errors, mistakes, omissions, work or service.

The insurance policies may provide coverage, which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the City under such policies. The Contractor shall be solely responsible for the deductible and/or self-insured retentions, and the City, at its option, may require the Contractor to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit.

The City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Contractor's obligations under this Contract.

Except for Worker's Compensation, the insurance policies, required by this Contract shall name the City, its agents, representatives, officers, directors, officials and employees as additional insureds.

Required Coverage

A. COMMERCIAL GENERAL LIABILITY

The Contractor shall maintain Commercial General Liability insurance with a limit of not less than $1,000,000 for each occurrence with a $2,000,000 Products/Completed Operations Aggregate and a $2,000,000 General Aggregate Limit. The Policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage. Coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof. The coverage shall not exclude X, C, U.

Such policy shall contain a severability of interest provision and shall not contain a sunset provision or commutation clause, nor any provision, which would serve to limit third party action over claims. The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc. Additional Insured, Form B, CG 20101185, and shall include coverage for Contractor's operations and products and completed operations.

B. OWNERS AND CONTRACTOR'S PROTECTIVE LIABILITY

The Contractor shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the Work or Contractor's operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than $1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Contractor's Commercial General Liability insurance.

C. AUTOMOBILE LIABILITY

Contractor shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than $1,000,000 each occurrence with respect to the Contractor's any auto, all owned autos, scheduled autos, hired autos, non-owned autos assigned to or used in performance of the Contractor's work. Coverage will be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off-loading hazards. If hazardous substances, materials or wastes are to be transported, MCS 90 endorsement shall be included and $5,000,000 per accident limits for bodily injury and property damage shall apply.

D. WORKER'S COMPENSATION

The Contractor shall carry Worker's Compensation insurance to cover obligations imposed by federal and state statues having jurisdiction of Consultant's employees engaged in the performance of the work or services; and Employer's Liability insurance of not less than $100,000 for each accident, $100,000 disease for each employee, and $500,000 disease policy limit.

In case any work is subcontracted, the Contractor will require the Subcontractor to provide Worker's Compensation and Employer's Liability to at least the same extent as required of the Contractor.

E. BUILDER'S RISK (PROPERTY) INSURANCE (AS REQUIRED)

When the project includes construction of a new building, an addition to an existing building, modifications to an existing building, or as otherwise may be required by the contracting agency, the Contractor shall purchase and maintain, on a replacement cost basis, Builder's Risk insurance in the amount of the initial Contract Amount as well as subsequent modifications thereto for the entire work at the site. At a minimum, the policy limits of such insurance shall be equal in face amount to the full Contract Amount. Such Builder's Risk insurance shall be maintained until final payment has been made or until no person or entity other than the City has an insurable interest in the property required to be covered, whichever is earlier. This insurance shall include interests of the City, the Contractor, and all Subcontractors and Sub-Subcontractors in the work during the life of the Contract and course of construction, and shall continue until the work is completed and accepted by the City. For new construction projects, the Contractor agrees to assume full responsibility for loss or damage to the work being performed and to the buildings under construction. For renovation construction projects, the Contractor agrees to assume responsibility for loss or damage to the work being performed at least up to the full Contract Amount, unless otherwise required by the Contract Documents or amendments thereto.

Builder's Risk insurance shall be on an all-risk policy form and shall cover false work and temporary buildings. Builder's Risk insurance shall insure against risk of direct physical loss or damage from external causes including debris removal, demolition occasioned by enforcement of any applicable legal requirements and shall cover reasonable compensation for Architect's service and expenses required as a result of such insured loss and other "soft costs" as required by the Contract.

Builder's Risk insurance must provide coverage from the time any covered property becomes Contractor's control and/or responsibility, and continue without interruption during construction

or renovation or installation, including any time during which the covered property is being transported to the construction installation site, and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered premises or any part thereof is occupied. Builder's Risk insurance shall be primary and not contributory.
If the Contract requires testing of equipment or other similar operations, at the option of the City, the Contractor will be responsible for providing property insurance for these exposures under a Boiler Machinery insurance policy.

Required coverage may be modified by an amendment to the Contract Documents.

CERTIFICATES OF INSURANCE

Prior to commencing work or services under this Contract, Contractor shall furnish the City with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect.

In the event any insurance policies required by this contract are written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services and as evidenced by annual Certificates of Insurance.
If a policy does expire during the life of the Contract, a renewal certificate must be sent to the City fifteen (15) days prior to the expiration date.

All Certificates of Insurance shall be identified with bid/project number and project name. A $25.00 administrative fee will be assessed for all certificates received without the appropriate bid serial number and title.

CANCELLATION AND EXPIRATION NOTICE

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days written notice to the City.

SECTION 104 - SCOPE OF WORK

104.1.3 WATER SUPPLY:
(revise to include the following)

Potable water may not be used for major construction activity, such as dust control, soil compaction, or street cleaning. Reclaimed water is available at the Wildcat Hill Wastewater Treatment plant on East Highway 66 and at the south end of Babbitt Drive at the Rio De Flag Water Reclamation Plant. Additional reclaimed water bulk loading sites are located in other areas of the city. The contractor

should obtain current locations from the Water Services Department. **Current rates for the reclaimed water shall apply**. The Contractor is responsible for the cost of construction water and it is considered incidental to the cost of the contract.

Prior to loading, hauling and applying reclaimed water, the Contractor shall be required to obtain the necessary no fee permit at the Wildcat Hill Wastewater Treatment Plant or from the Rio De Flag plant and shall be responsible for complying with all permit and ADEQ requirements regarding the use of reclaimed water.

104.1.4 SPECIAL ACCESS REQUIREMENTS:
(revise to include the following)

The Contractor shall maintain access to all side streets, access roads, driveways, alleys, parking lots and to adjacent properties during their hours of operation. The Contractor shall coordinate with residents and ensure access to all driveways be provided during all non-working hours. Where a property has more than one driveway, no more than one access will be restricted or closed at one time. Should it be necessary to close access to private property, driveways or alley entrances, the closure must be for as short a time as possible and be restored at the end of the work shift. If primary business access cannot be restored, the Contractor shall provide an alternate access, which will be coordinated with the business and pre-approved by the Owner prior to any restrictions being implemented.

104.1.5 SANITATION PICKUP:
When construction activity interferes with pickup, the contractor shall provide for sanitation and recycling vehicle access to the affected properties or relocate the containers where access is acceptable.

104.1.6 EMERGENCY ACCESS:
Street closure information shall be submitted to the City's Project Representative who will forward the information to the Fire Department and Police Department. All notices shall be submitted at least 72 hours in advance of the closures.

104.1.7 POSTAL SERVICE ACCESS:
The contractor shall be responsible for maintaining access for Postal Service within the project area at all times.

104.1.8 SCHOOL BUS ACCESS:
The contractor shall be responsible for maintaining access for bus access within the project area.

104.2 ALTERATION OF THE WORK:

104.2.3 DUE TO EXTRA WORK:
(revise to include the following)

When Allowance and/or Contingency items are provided for in the contract, the funds are encumbered for use at the discretion of the Project Manager. The funds are to cover unanticipated costs to complete items of work not included in the Contract Documents or may be applied to any work deemed necessary by the Owner. Work would include, but not limited to, unanticipated conditions, scope changes, addressing errors or omissions, and/or construction changes that are warranted for project completion consistent with the purpose of the work.

The amount of the allowance item is determined by the City and is not subject to individual bid pricing. The allowance is not part of the bidding process and per the City of Flagstaff Procurement Manual, will be added to the contract amount, if approved by the City Council.

The allowance item provides an estimated funding to cover unforeseen changes that may be encountered and corresponding extra work needed to complete the contract. Any work which is to be paid out of this allowance shall be authorized in writing and approved by Field Order prior to proceeding with the work. Extra work shall be paid for in the following order of precedence:
1.) by extension of unit bid prices, 2.) by negotiated price or 3.) by a time and materials basis in accordance with MAG Section 109.5.

It shall be understood that the amount for this item in the proposal is an estimate only and no guarantee is given that the full amount or any portion thereof will be utilized. It shall not be utilized without first obtaining an approved Field Order signed by the Contractor and the Project Manager.

105.2.1 RECORD DRAWING PREPARATION AND COORDINATION
(revise to include new subsection as follows)

Record drawing preparation shall be the obligation of the Contractor whose purpose is to accurately record and depict the as-built conditions. During the construction phase and prior to backfilling or covering of improvements, the Contractor shall have the work surveyed and recorded for record drawing preparation.

The Contractor shall maintain a redline working copy of the project plans which shall include changes made in construction of the project. The redline copy of the plans shall be updated weekly.

105.2.2 RECORD DRAWING (As-Built Plans)
(revise to include new subsection as follows)

The Contractor shall retain an Arizona licensed civil engineer to record as-built information per Arizona Revised Statute § 32-152. Water and sewer record drawing certification shall comply with ADEQ R18-5-508 (drinking water) and ADEQ R18-9-E301 (sewage collection) requirements for as-built drawings. Unless otherwise noted, the City will complete and submit the Engineer's Certificate of Completion to ADEQ.

Prior to the City's final approval and acceptance of public improvements (sanitary sewer, water, storm sewer, streets) record drawings (as-built plans) must be submitted to the City for review and acceptance per Engineering Standard Specifications.

A redline submittal shall be a .pdf and/or two sets of blue or black line paper sets, copied from the originally approved plan set. Redline submittal will be reviewed by the City and returned with applicable comments. Comments are to be addressed and resubmitted for the City's final approval. A reference checklist is available from the Office of the City Engineer.

Upon City and ADEQ (when applicable) review and approval of the submittal, an electronic .pdf of the plans shall be submitted to the City as a permanent record. All record drawing plan sets shall contain a statement by a licensed professional engineer, currently registered to practice in Arizona, certifying that the drawings are per the as-built condition. The record set requires the seal and signature of the registrant per Arizona Revised Statutes § 32-152. All survey data given by the record drawings shall be performed by a land surveyor who is currently registered in the State of Arizona. Plans must show seal and signature of registrant.

Payment shall be lump sum for all work required to develop the necessary documents, including but not limited to coordination, field inspection, survey, drafting, printing and engineer's seal. The fee shall include as-built information for all record changes within the project area.

SECTION 105 - CONTROL OF WORK

105.8 CONSTRUCTION STAKES, LINES AND GRADES:
(revise entire subsection to read as follows)

The Contractor shall be responsible for all required construction staking, including preconstruction staking for relocation of existing utilities. All construction staking is to be done under the direct supervision of a Registered Land Surveyor or Civil Engineer. All costs associated with this work are

to be included in the amount bid for the items of work to which it is incidental or appurtenant. No separate payment will be made for construction staking.

105.10 INSPECTION OF THE WORK
(revise to include the following)

The Contractor is responsible for Quality Control of the work. The City will perform Quality Assurance; frequency of testing will be determined by the City. The Contractor shall be responsible for coordinating and scheduling all inspections of the work and shall confirm that the required inspections and material testing are completed and accepted prior to proceeding with additional work. The Contractor is required to perform the work to a confidence level that the City's Quality Assurance will validate that the work meets specification(s).

105.11 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK:
(revise to include the following)

Any work and/or materials condemned by the Project Manager as inferior or not in compliance with the Contract, Specifications and Plans shall be immediately removed by the Contractor. Materials and/or work so condemned shall be removed and promptly replaced and executed in accordance with the Contract, Specifications and Plans without any expense to the Owner. The Contractor shall bear the expense of making good on all work of other contractors destroyed or damaged by such removal and replacement.

105.12 MAINTENANCE DURING CONSTRUCTION:
(revise to include the following)

The Contractor is responsible to provide adequate drainage for the construction area at all times. Damage to any portion of the work caused by the Contractor's failure to provide adequate drainage of the construction area shall be repaired at the Contractor's expense. A contract time extension will not be granted for any additional time required to make such repairs.

The Contractor shall control open excavations and stockpiling in a manner to prevent water from running into excavations. Obstructions of surface drainage shall be avoided and means shall be provided whereby storm water and wastewater can flow uninterrupted in existing or established pipes, flow courses, other surface drains, temporary drains or channels.

Material for backfill or for protection of excavations within public roads or easements shall be placed and shaped to cause the least possible interference to public travel. In no event shall any flows be allowed to enter private property.

The City shall provide snow removal operations on active traffic lanes, outside of Contractor traffic control, only. All other snow removal and maintenance operations shall be the responsibility of the

Contractor, including snow removal on adjacent, open and active streets that are only accessible by travel through project-related street closures, even when outside of project limits. All costs associated with snow removal and proper disposal shall be considered incidental to the work including the repair of temporary and permanent surface improvements due to damage by any snow removal operations. Snow removed from public roads or easements shall be placed and shaped to cause the least possible interference to public travel, parcel access, drainage, and parking. In no event shall snow be stored on private property.

105.16 MAINTENANCE DURING WINTER SUSPENSION OF WORK
(revise to include new subsection as follows)

The City retains the right to declare a winter shutdown, *for any reason*, on the Project including but not limited to adverse weather conditions. A winter shutdown period is typically December through March during which no work will be performed on the Project.

The Contractor shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws.

If work has been suspended due to winter weather, the Contractor shall be responsible for maintenance and protection of the improvements and of partially completed portions of the work until final acceptance of the project. Winter suspension shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the suspension, the Contractor is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the work and deduct the cost from monies due or become due to the Contractor.

The City shall provide snow removal operations on active traffic lanes, outside of Contractor traffic control, only. All other snow removal and maintenance operations shall be the responsibility of the Contractor, including snow removal on adjacent, open and active streets that are only accessible by travel through project-related street closures, even when outside of project limits. All cost associated with snow removal and proper disposal shall be considered incidental to the work including the repair of temporary and permanent surface improvements due to damage from normal wear by any snow removal operations during the Winter Shutdown. Snow removed from public roads or easements shall be placed and shaped to cause the least possible interference to public travel, parcel access, drainage, and parking. In no event shall snow be stored on private property.

SECTION 107 - LEGAL REGULATIONS AND RESPONSIBILITY TO THE PUBLIC

107.1 LAWS TO BE OBSERVED:
(revise to include the following)

(G) TAX EXEMPTION: Certain material, machinery and equipment to be installed in this project is exempt from sales tax or use tax as allowed in Arizona Revised Statutes Section 42-5061, 42-5009 and Section 42-5159 and by the Administrative Rules and Regulations of the Arizona Department of Revenue; ACC R15-5-608, R15-5-120 and R15-5-2314.

The City wishes to rely upon the expertise of the contractor in the purchase of items that qualify for the tax exemption. With respect to purchase of the qualifying items, the Contractor is authorized to act as an agent for the City. This agency agreement is strictly limited to the purchase of the qualifying items to be used in the construction of the project and will not otherwise affect or alter the respective rights, responsibilities and remedies of the parties as specified under this contract. The contractor shall furnish the City a list of suppliers and the material, machinery and equipment to be furnished by each. The City will then issue the materials and equipment exemption certificate to each supplier pursuant to A.R.S. §42-5009 (A) (2). The contractor's applicable unit bid prices for items qualifying for this tax exemption should not include sales or use tax. The materials, machinery and equipment that are a part of this project and to which the exemption applies are listed below:

1. Pipes, valves and appurtenances four (4) inches in diameter or larger used to transport potable water,
2. Any additional material, machinery or equipment identified in the Special Provisions.

107.2.1 TEMPORARY USE PERMITS:
(revise to include new subsection as follows)

A Temporary Use Permit (and Above Ground Fuel Storage Permit if applicable) is required prior to the establishment of any temporary construction yard, material storage area or staging area located within City limits and outside the public right-of-way or project limits. The Contractor is responsible for obtaining the necessary Temporary Use Permit from the agency with jurisdictional authority.

The time required to process the Temporary Use Permit is approximately twelve (12) calendar days. The Contractor shall submit the necessary permit application no later than ten (10) calendar days following the Notice of Award. Any delays experienced by the Contractor in acquiring the Temporary Use Permit shall not necessarily be grounds for delaying the project Notice to Proceed.

107.2.2 DISPOSAL OF WASTE AND SURPLUS MATERIAL:
(revise to include the following)

All disposal costs, regardless of disposal site, shall be included in the bid unit price for the related item of work and no direct payment will be made for disposal of waste or surplus materials. This right of disposal does not apply to any substance or items that are regarded as toxic and/or hazardous by the City, the State of Arizona or the United States Government.

Alternate disposal sites may be proposed by the Contractor but are subject to all applicable local ordinances and codes. In addition to the property owner's written authorization, all disposal sites within the city limits are subject to review and approval by the Temporary Use Permit process. The disposal of material at alternate disposal sites will not be allowed without written authorization of the owner, approval of the appropriate jurisdictional authority, and the issuance of all necessary permits.

107.2.3 ABOVE GROUND FUEL STORAGE PERMIT:
(revise to include new subsection as follows)

If required, Above Ground Fuel Storage Permits may be obtained from the City of Flagstaff Fire Department, located at 211 West Aspen Avenue, Flagstaff, AZ. The Contractor is responsible for obtaining the permit.

107.5 SAFETY, HEALTH, AND SANITATION PROVISIONS:

107.5.4 HANDLING, REMOVAL AND DISPOSAL OF SURPLUS MATERIAL AND ASBESTOS CONTAINING MATERIALS (ACM)
(revise to include new subsection as follows)

The Contractor is responsible for handling, removal and disposal of all soil material generated by the project as described in the General Provisions.

The City requires compliance with Environmental Protection Agency (EPA), Arizona Department of Environmental Quality (ADEQ) and Occupational Safety and Health Administration (OSHA) asbestos regulations for all City projects.

Utility pipes constructed of materials other than metal or polyvinyl chloride (PVC) require testing prior to any disturbance of the pipes to determine if regulated levels of asbestos are present in the pipe material. Suspect pipe materials requiring testing typically include vitrified clay and cement pipe (transite). Asbestos testing is not required for metal pipes.

City Public Works/Sustainability & Environmental Management staff are available to collect samples and submit the samples for analyses. The City of Flagstaff will provide testing free of charge. If the pipe does not contain regulated levels of asbestos, the contractor may disturb and remove the piping. If utility piping contains regulated levels of asbestos, an asbestos abatement contractor must perform any disturbance/removal of the pipe materials. This is required to ensure workers are not exposed to any asbestos fibers.

Work may require the proper handling, removal and disposal of regulated asbestos piping and materials generated by cutting or breaking the pipe to remove it from the ground. If asbestos containing materials (ACM) removal is necessary on the project, the City of Flagstaff requirements for handling, removal and disposal are as follows:

- If an infrastructure or building material that is not either wood, glass or metal is encountered during the project and has not yet been either assumed or positively identified to be ACM then the material(s) must be sampled in accordance with regulations generated by the EPA Asbestos Hazard and Emergency Response Act (AHERA) 40 CFR 763 as well as OSHA 29 CFR 1910.1101, by a certified AHERA Building Inspector and sent to a National Voluntary Laboratory Accreditation Program (NVLAP) certified laboratory for analysis.

- Once materials of concern are assumed or properly identified to be ACM then material removal is required according to OSHA 29 CFR 1910-1926.1101 by a certified asbestos abatement worker, and NOT a general contractor (GC). However, if the GC holds the appropriate asbestos certifications (AHERA Asbestos Operations and Maintenance), which the City would need to verify is current, then the GC could perform the asbestos abatement.

The City requires the General Contractor arrange for abatement of assumed and/or identified ACM by a certified asbestos abatement contractor and to arrange area and/or clearance air monitoring by a third party certified asbestos consultant. If applicable to the project, copies of abatement activities and air monitoring shall be provided to City of Flagstaff Environmental Management staff.

In the event of large disturbances to ACM, compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAP) 40 CFR 61, Subpart M shall be followed. Notification would be required the Arizona Department of Environmental Quality 10 working days in advance of the start of a large project. This notification is not typically required for utility pipe work, but could be required for a very large project involving numerous saw cuts of utility pipes. http://www.azdeq.gov/environ/air/asbestos/

If ACM removal is necessary on the project, the City of Flagstaff requirements for ACM disposal at the City's Cinder Lake Landfill are as follows:

Only non-friable asbestos waste is accepted for disposal at Cinder Lake Landfill. PRIOR to disposal of non-friable ACM, obtain the necessary forms, which are:

- Non-Friable Asbestos Waste Acceptance Application and accompanying instructions
- Non-Friable Asbestos Waste Shipment Record (WSR)

The Asbestos Waste Acceptance Application is available at the City of Flagstaff's website or by contacting the City of Flagstaff Environmental Management staff. A Waste Shipment Record is required to accompany each load of non-friable asbestos waste taken to the Cinder Lake Landfill.

Assure the non-friable ACM is properly handled and wrapped. Non-friable ACM must be thoroughly wetted using amended water PRIOR to being wrapped in 6-millimeter poly and be tightly sealed with duct tape. If the material is heavy (such as transite pipe), has sharp edges, or may easily puncture the poly wrap, a double layer of poly will be necessary. The Cinder Lake Landfill scale house attendant will inspect the load to ensure it is properly wrapped. Containers holding non-friable ACM shall be carefully unloaded and placed in a designated location. Dumping using a hydraulically lifted bed of a truck is not permitted (dump truck), as the poly wrap may be torn open.

If using a large bin for disposal, attach a copy of the Waste Shipment Record to the disposal bin. If not using a City of Flagstaff disposal bin, make sure the delivery driver takes a copy of the SIGNED Non-Friable Asbestos Waste Acceptance Application and the Waste Shipment Record to the Cinder Lakes Landfill with the waste delivery.

If using a City of Flagstaff disposal bin call City Environmental Services at (928) 774-0668 to schedule a pick-up for the disposal bin. Please be sure to provide the driver with the SIGNED Non-Friable Asbestos Waste Acceptance Application and the Waste Shipment Record and be sure to clarify if you would like the disposal bin emptied and removed, or emptied and returned to the work site. When disposal is completed, the Landfill Manager will sign the Waste Shipment Record and landfill staff will provide or mail a copy of the Waste Shipment Record.

Cutting of utility pipes generates Regulated Asbestos Containing Material (RACM). RACM requires disposal at the Joseph City Landfill or at other landfills located in southern Arizona.

All work relating to the removal and disposal of unknown and unanticipated hazardous materials as described above shall be paid per MAG 109.4.3.

107.8 107 USE OF EXPLOSIVES:
(first paragraph, revise second sentence to read as follows)

The Contractor shall submit a blasting plan for approval and obtain a Blasting Permit from the City of Flagstaff Fire Department, located at 211 W. Aspen Avenue, Flagstaff, Arizona.

(revise to include the following)

The Contractor shall submit a copy of the approved blasting plan to the Project Manager. The plan shall include as a minimum; safety layout, drilling pattern, size and depth of bore, weight and type of charge, delay sequence, contractor's anticipated peak particle velocity at the right-of-way line or nearest structure, and the proposed seismograph locations.

A record of each blast shall be kept and all records including seismograph reports shall be available for inspection. Each record shall provide as a minimum; location, date and time of blast, name of person in charge, number of holes burdened, spacing, diameter and depth of holes, boring logs to determine top of rock, type and total amount of explosives used, direction and distance to nearest building, type of detonators and delay periods used, and exact locations of seismographs.

When blasting operations are to be conducted within 200 feet of a water line, sewer line or other underground utility, the Contractor shall take additional precautionary measures. The Contractor shall also coordinate with Franchise Utilities prior to blasting operations. The Contractor shall notify the owner of the facility a minimum of two weeks in advance that such blasting operations are intended. At their discretion, the Owner may perform pre-blast, post-blast pressure tests or other inspection of the facility. If any damage occurs because of blasting operations, the Contractor shall be responsible for the restoration of the facility to pre-blast conditions.

107.9 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE:
(revise to include the following)

The Contractor is responsible for replacing and/or restoring the site, landscaping and owner's improvements associated with the project to the pre-existing condition using in-kind materials. All cost shall be included in the bid as incidental to the work, unless otherwise specified in the bid schedule or plans.

Within easements, the Contractor is responsible for removing existing improvements and salvaging items (not identified for removal) for relocation after the public improvements are completed. Close coordination between the Contractor and property owners and/or residents is required.

107.11 CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICES:
(revise to include the following)

All power poles, pedestals, guy wires and underground facilities shall be removed and/or relocated by the respective owners of the facilities. The contractor is responsible for the notification and coordination with the utility companies to ensure that this work is accomplished in a manner

consistent with the construction schedule. Payment for Franchise Utility coordination and location is incidental to the cost of the work.

The Contractor shall perform utility potholes and identify potential conflicts prior to trenching. The utility pothole information and identification of potential conflicts shall be provided to the Project Manager at least two weeks prior to performing trenching or pipeline construction.

SECTION 108 - COMMENCEMENT, PROSECUTION AND PROGRESS

108.1 NOTICE TO PROCEED:

(revise to include the following)

Time is of the essence in submitting the initial and revised construction schedule and traffic control plan. Each is a requirement that precedes the Contractor's right and the City's obligation to proceed with the agreement.

The Notice to Proceed shall be issued for a start date no later than twenty-seven (27) calendar days following receipt of the Notice of Award. The Contractor shall be required to submit a construction schedule and traffic control plan in accordance with the Contract Documents and the following:

The Contractor shall within seven (7) calendar days of receiving the Notice of Award, submit a construction schedule and traffic control plan to the Project Manager. The Project Manager shall promptly review the construction schedule and traffic control plan and either approve them, or provide a written list of the items that will require revision. The Contractor shall submit the revised construction schedule and traffic control plan within five (5) calendar days of receiving the Project Manager's list of required revisions. The corrected construction schedule and traffic control plan submittal shall address all comments from the Project Manager's list of required revisions.

108.3 CORRESPONDENCE TO THE CONTRACTOR:

(revise to include the following)

In addition to written communication to the Project Manager, the Contractor shall provide and maintain a contact located within ten miles of the job site at all times throughout the duration of the Contract. The designated contact shall be accessible by telephone at all times to respond to agency requirements and emergencies. The local location and phone number(s) shall be provided to the Project Manager prior to issuance of the Notice to Proceed. Any changes of the location or phone number(s) shall be reported immediately to the Project Manager.

If a response is needed, the Contractor is required to respond and perform the repairs and/or maintenance within two (2) hours of notification from the City. If the needed repairs and/or

maintenance are not addressed within the timeframe, the City will accomplish the work and deduct the cost from monies due or become due to the Contractor.

108.4 CONTRACTOR'S CONSTRUCTION SCHEDULE:
(revise to include the following)

The Contractor's schedule shall include, as a minimum, the following:

- Identification of project tasks with assigned dates and durations, which reflect anticipated sequencing of construction activities on scheduled working days;
- All anticipated subcontractors that will be used during the course of the work;
- The anticipated number of crews to expedite the progress and ensure prompt completion of the work;

  Definition of a crew;
  - personnel *(e.g. operator, laborer)*
  - equipment *(e.g. Cat 325 Excavator, 950 Loader)*
  - workdays anticipated or scheduled per week (*e.g. Monday through Friday)*
  - work hours anticipated or scheduled per day *(e.g. 7:00 am to 3:30 pm)*
- Anticipated adverse weather days for weather dependent activities, weekends and holidays.
- Specific long lead times for delivery of equipment and materials;
- Critical path project schedules may be required as provided for by the Special Provisions or Project Addenda.

108.5 LIMITATION OF OPERATIONS:
(third paragraph, revise to read as follows)

Except in emergencies endangering life or property, written permission shall be obtained from the City prior to performing any work on weekends, legal holidays or after regular work hours (hereinafter defined as 7:00 a.m. to 5:00 p.m. - Monday through Friday). Work on Saturdays will be permitted with prior approval by the City's Engineering Inspection Supervisor. 72 hours advance notice will be required. Work on Sundays and legal City Holidays will not be permitted except in emergencies or as approved by the owner. Inspection and testing will not be provided on Sundays or City legal holidays without prior approval from the Project Manager (72-hour advance notice) and full compensation by the Contractor for any necessary personnel, equipment and services.

Overtime compensation for City personnel shall be as follows:

Construction Supervisor @ $ 43.00/hour
Inspector II @ $ 35.00/hour
Inspector I @ $30.00/hour
Lab Tech I @ $ 25.00/hour

Vehicle @ $1.80/hour

108.7 DETERMINATION AND EXTENSION OF CONTRACT TIME:
(revise to include the following)

The contract time, including final clean-up of the project site and storage areas, may be extended because of weather conditions that cannot be reasonably anticipated. The number of actual days that the scheduled work is impacted by adverse weather shall be recorded weekly during the construction period.

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. The following is the monthly schedule of adverse weather days that shall be anticipated by the Contractor in scheduling the work:

TABLE 108.7 MONTHLY CALENDAR DAYS for ANTICIPATED ADVERSE WEATHER

MONTH	*JANUARY*	*FEBRUARY*	*MARCH*	*APRIL*	*MAY*	*JUNE*
Monthly Calendar Days for Anticipated Adverse Weather	7 Days	7 Days	8 Days	6 Days	4 Days	3 Days
Average Monthly Precipitation	1.98”	1.96”	2.05”	1.34”	0.68”	0.51”
MONTH	*JULY*	*AUGUST*	*SEPTEMBER*	*OCTOBER*	*NOVEMEBER*	*DECEMBER*
Monthly Calendar Days for Anticipated Adverse Weather	12 Days	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”

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 of an inch per calendar day.
The number of actual days that scheduled work is impacted by adverse weather as defined above shall be recorded weekly during the contract period. It is the Contractor's responsibility to request in writing any adverse weather delays experienced during the prior week no later than the normally scheduled weekly project meeting. Any adverse weather day requests that are not received, as stated above, shall neither be considered nor approved. Once the number of approved actual adverse weather days exceeds the number of anticipated adverse weather days in the schedule above, the Contractor is entitled to a contract time extension.

Actual adverse weather days must also prevent work for fifty (50) percent or more of the Contractor's work day and delay scheduled work critical to the timely completion of the project. The

City will convert any delays meeting the above requirements to calendar days and extend the contract period as necessary. No additional compensation will be allowed for direct and indirect overhead expenses associated with any such contract time extensions. The Contractor's schedule must include the above anticipated adverse weather delays for all weather dependent activities and shall show all weekends and holidays.

108.8 GUARANTEE AND WARRANTY PROVISIONS:
(revise to include the following)

If requested by the City, the Contractor shall return to the project site eleven months after acceptance of the project and visually inspect, in the presence of the Owner's Representative, all accessible construction items and appurtenances. All defective materials and/or workmanship shall be satisfactorily repaired or replaced at the sole expense of the Contractor.

All costs for the 11-month inspection and repair shall be borne by the Contractor and in figuring his or her bid, the Contractor shall include an appropriate amount for such inspection and possible required repair, and no additional payment will be allowed.

108.10 FORFEITURE AND DEFAULT OF CONTRACT:
(revise to include new section)

Due to Failure to Prosecute the Work

If the Contractor fails to prosecute the work in accordance with the contract, including requirements of the progress schedule, the City may correct these deficiencies after three days after providing written notice to the Contractor. The cost of these remedies shall be charged against the Contractor. A change order may be issued to make the necessary changes in the contract and to make an appropriate reduction in the contract price. Such a change order shall not require the signature or approval of the Contractor. The remedy shall not prejudice the City's use of any other remedy, which the City may be entitled to use.

108.12 AUTHORIZED SIGNATURES:
(revise to include new section)

The Contractor shall provide a notarized list of all authorized signatures for project related documents. Only those individuals listed by the Contractor on the project Authorized Signature form shall be authorized to sign the contract, contract change orders, time extensions, bonds, securities, pay requests, certifications or other documents that affect the execution of the Contract.

108.13 SUBSTANTIAL COMPLETION:
(revise to include new section)

The project is substantially complete within the contract time and liquidated damages will no longer be assessed when the following have occurred:

(A) All contract items of work have been substantially completed and pedestrian and vehicular traffic can move unimpeded through the project;

(B) The only work left for completion is incidental, causes no disruption to pedestrian and vehicular traffic, and does not affect the safety and convenience of the public;

The decision whether the project is substantially complete is within the sole discretion of the Project Manager. At that time, a *Substantial Completion* letter will be issued by the City to the Contractor.

The remaining incidental work shall be completed within 15 calendar days from the issuance of the *Substantial Completion* letter. Failure to prosecute the remaining work within this time-period will result in the resumption of time charges and the application of liquidated damages from the date scheduled for final acceptance and start of warranty.

The start of the project warranty period will be established in the *Notice of Final Acceptance* and does not begin with substantial completion.

The Contractor is responsible for correction and repair of any project deficiencies until the end of the warranty period established in the *Notice of Final Acceptance* at which time the City will accept the improvements for operation and maintenance.

108.14 SUSPENSION and TERMINATION:
(revise to include new section)

CITY'S RIGHT TO STOP WORK

The City may, at its discretion and without cause, order the Contractor in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and eighty (180) consecutive days.

The Contractor may seek an adjustment of the Contract Price and/or Contract Time if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by the City.

TERMINATION FOR CONVENIENCE

Upon receipt of written notice to the Contractor, the City may, at its discretion and without cause, elect to terminate this Agreement. In such event, the City shall pay the Contractor only the direct value of its completed Work and materials supplied as of the date of termination. The Contractor shall be entitled to profit and overhead on completed Work only but shall not be entitled to anticipated profit or anticipated overhead.

If the City suspends the Work for one hundred eighty-one (181) consecutive days or more, such suspension shall be deemed a termination for convenience.

Upon such termination, the Contractor shall proceed with the following obligations.

1. Stop Work as specified in the notice.
2. Place no further subcontracts or orders.
3. Terminate all subcontracts to the extent they relate to the work terminated. The Contractor shall ensure that all subcontracts contain this same termination for convenience provision.
4. At the City's sole discretion and if requested in writing by the City, assign to the City all right, title and interest of the Contractor under the subcontracts subject to termination.
5. Take any action that may be necessary for the protection and preservation of the property related to this Agreement that is in the possession of the Contractor and in which the City has or may acquire an interest.
6. The Contractor shall submit complete termination inventory schedules no later than one hundred twenty (120) days from the date of the notice of termination.

The City shall pay the Contractor the following:

1. The direct value of its completed Work and materials supplied as of the date of termination.
2. The reasonable and direct, actual costs and expenses attributable to such termination. Reasonable costs and expenses shall not include, among other things, anticipated profit, anticipated overhead, or costs arising from the Contractor's failure to perform as required under this Agreement.
3. The Contractor shall be entitled to profit and overhead on completed Work only but shall not be entitled to anticipated profit or anticipated overhead. If it is determined that the Contractor would have sustained a loss on the entire Work had they been completed, the Contractor shall not be allowed profit and the City shall reduce the settlement to reflect the indicated rate of loss.

The Contractor shall maintain all records and documents for three (3) years after final settlement. These records shall be maintained and subject to auditing as prescribed in Section 7.7.

THE CITY'S RIGHT TO PERFORM AND TERMINATE FOR CAUSE

If the City provides the Contractor with a written order to provide adequate maintenance of traffic, adequate cleanup, adequate dust control or to correct deficiencies or damage resulting from abnormal weather conditions and the Contractor fails to comply in a time frame specified, the City may have work accomplished by other sources at Contractor's sole expense.

If the Contractor persistently fails to

1. provide a sufficient number of skilled workers,
2. supply the materials required by the Contract Documents,
3. comply with applicable Legal Requirements,
4. timely pay, without cause, sub-consultants and/or subcontractors,
5. prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time, as such times may be adjusted, or
6. perform material obligations under the Contract Documents, then the City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth below.

Upon the occurrence of an event set forth above, the City may provide written notice to the Contractor that it intends to terminate this Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of the Contractor's receipt of such notice.

If the Contractor fails to cure, or reasonably commence to cure, such problem, then the City may give a second written notice to the Contractor of its intent to terminate within an additional seven (7) day period.

If the Contractor, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then the City may declare this Agreement terminated for default by providing written notice to the Contractor of such declaration.

Upon declaring this Agreement terminated and for the purpose of completing the Work, the City may enter upon the premises and take possession of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work. The Contractor hereby transfers, assigns and conveys all items, which have been purchased or provided for the performance of the Work to the 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.

In the event of such termination, the Contractor 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 Contractor shall be entitled to be paid only for Work performed and accepted by the City prior to its default.

If the City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then the Contractor shall be obligated to pay the difference to the City. Such costs and expenses shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by the City in connection with the re-procurement and defense of claims arising from the Contractor's default.

If the 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 108.14

SECTION 109 - MEASUREMENTS AND PAYMENTS

109.1 MEASUREMENT OF QUANTITIES:
(revise to include the following)

It is the responsibility of the Contractor to conform to the Contract Documents, including plans, typical sections and specifications including but not be limited to dimensions, materials, application rates and densities. The Contractor shall take all actions necessary to ensure that the work conforms to the contract documents. The Contractor shall cooperate fully with the Project Manager or Project Manager's representative to correct any known nonconformity to the contract documents.

109.1 MEASUREMENT OF QUANTITIES:
(delete the second paragraph)

Unless otherwise specified, longitudinal and surface (plane) measurements will be made in a horizontal plane.

PART 200 - EARTHWORK

SECTION 201 - CLEARING AND GRUBBING

201.3 CONSTRUCTION METHODS:
(revise to include the following)

The Contractor shall make every effort possible to avoid damaging existing trees. In the event that any trees suffer limb damage, the Contractor shall cut branches to the nearest branch crotch or to the branch collar at the trunk.

No separate payment will be made for trimming trees. The cost shall be considered incidental to the work.

SECTION 205 – ROADWAY EXCAVATION

205.1 DESCRIPTION
(revise to include the following)

The bid schedule unit cost for excavation, backfill and embankment work shall include the cost of rock excavation, handling rock or disposing of rock and no separate measurement or payment shall be made. Rock shall be defined as any highly cemented or hard material that may require additional efforts for removal, handling or disposal.

205.2 UNSUITABLE MATERIAL:
(third paragraph, revise to read as follows)

Should unsuitable material be encountered at subgrade elevation in cut areas or at existing grade in fill areas, the unsuitable material shall be removed and replaced with suitable fill material in accordance with MAG Section 210 and MAG Section 211.

Determination of unsuitable material and the limits and depths of required removal and replacement shall be at the sole discretion of the Project Manager. In no case shall any unsuitable material be removed without prior written consent of the Project Manager.

Measurement and payment for removal and replacement of unsuitable material will be by the cubic yard as shown in the proposal. Payment shall be compensation in full for the work complete and in-place including any borrow, permits, pit royalties, all excavation, hauling, placing, compacting, conditioning, watering and proper disposal, together with all appurtenant costs.

205.3 MEASUREMENT
(revise to include the following)
Earthwork is incidental to the roadway construction and no additional payment will be made for roadway excavation. The Contractor shall be responsible for estimating and accounting for earthwork import and haul off. It is recommended that the Contractor review the report on geotechnical investigation and sampling results.

PART 300 -- STREETS AND RELATED WORK

SECTION 301 - SUB-GRADE PREPARATION

301.1 DESCRIPTION:

(revise to include the following)

The untreated base or prepared subgrade shall be test rolled in the presence of the Project Manager prior to the placement of asphalt paving materials. The equipment used to perform the test roll shall be approved by the Project Manager. The Contractor shall be responsible for scheduling this test roll with the Inspector during regularly scheduled work. All costs associated with the test roll shall be considered incidental to and included in the cost of sub-grade preparation.

SECTION 336 - PAVEMENT MATCHING AND SURFACING REPLACEMENT

336.1 DESCRIPTION:

(first paragraph, revise to include the following)

The exact points of pavement matching shall be determined in the field by the Project Manager.

336.2 MATERIALS AND CONSTRUCTION METHODS:

336.2.1 PAVEMENT WIDENING OR EXTENSIONS:

(first paragraph, revise second sentence to read as follows)

The minimum depth of cut shall be four (4) inches or Depth/4, whichever is greater.

PART 400 -- RIGHT-OF-WAY AND TRAFFIC CONTROL

SECTION 401 - TRAFFIC CONTROL

401.5 GENERAL TRAFFIC REGULATIONS:

(revise to include the following)

Within seven (7) calendar days following receipt of the Notice of Award and in accordance with Section 108.1 of these General Provisions, the Contractor shall submit to the Project Manager a traffic control plan that shows the control of traffic in accordance with Part VI of the FHWA Manual on Uniform Traffic Control Devices for all phases of the work. The plan should include nights, weekends, shut down periods and an approximate schedule of street closures and detours.

The Traffic Control Plan is to detail the Contractor's proposal for routing traffic and pedestrians around the areas of construction. The Plan shall be coordinated with the proposed construction schedule and show how the locations of the various traffic and pedestrian control devices will

change as construction progresses. The Plan shall allow for complete detours around the work areas.

Private and commercial driveways shall not be closed for any period exceeding eight hours during any twenty-four-hour period. The affected resident and the City shall be notified 48 hours in advance of any closure. Convenient access to driveways, houses and buildings along the line of work shall be maintained and temporary crossings or alternate access shall be provided and maintained in good condition, except during that period mentioned above. **Business access shall be maintained at all times by at least one driveway.**

(eleventh paragraph, revise to read as follows)

The Contractor will reinstall all permanent traffic control devices as required by the approved construction plans and specifications.

(twelfth paragraph, delete the last sentence)

Delete - The Traffic Engineering Department will reinstall all traffic signs.

401.7 PAYMENT:
(revise paragraph to read as follows)

Payment for all work and materials required to prepare a traffic control plan and provide traffic control during construction shall be made at the lump sum price shown on the Bid Schedule. Full compensation for any required traffic control devices, flaggers, uniformed off-duty law enforcement officers, pilot cars and drivers shall be included in the lump sum contract price and no additional payment shall be allowed. Progress payments shall be made based on the Contractor's estimate for percent complete as approved by the Owner.

SECTION 425 TOPSOIL

425.2 MATERIALS:
(revise to read as follows)

Overburden topsoil shall be salvaged and reused when possible. All topsoil, whether overburden or imported, shall be free of roots, heavy clay, clods, noxious weed seeds, coarse sand, large rocks, sticks, brush, litter and other deleterious material and meet the requirements of MAG Section 795. The Project Manager's approval of the proposed topsoil shall be obtained before delivery to the project.

425.4 MEASUREMENT:
(revise paragraph to read as follows)

Topsoil shall be measured lump sum, complete and in place unless indicated otherwise by the bid schedule.

425.5 PAYMENT:
(revise to read as follows)

Topsoil will be paid for in accordance with the contracted price for furnishing and placing topsoil, as described and specified. Progress payment shall be made based on the Contractor's estimate for percent complete as approved by the Owner.

SECTION 430 – LANDSCAPING AND PLANTING
(revise to include section as follows)

430.3 LAWN AREAS

430.3.1 Preparation of In Place Soil
(delete the second paragraph and revise to read as follows)

After clearing, grubbing and initial cultivation has been completed, a slow release chemical fertilizer shall be mechanically spread over the turfgrass area at an average rate of 1 pound of actual nitrogen per 1000 square feet. After spreading, the fertilizer shall be cultivated into the top four inches of soil using suitable equipment. The resulting soil shall be in a friable condition suitable for planting. (Actual nitrogen is determined by using the nitrogen ratio number x weight of the bag/100).

430.3.2 Seeding
(delete the first and second paragraph revise to read as follows)

The rate of seeding shall be three pounds of seed per 1000 square feet using the following seed mixture;

Poa pratensis	Kentucky Bluegrass (mix of three varieties)	70%
Lolium perenne	Perennial Rye Grass	10%
Festuca rubra	Creeping Red Fescue	20%

Alternative species may be acceptable but are subject to prior approval from the City Project Manager or duly authorized representative.

SECTION 431 – EROSION CONTROL

(revise to include new section as follows)

431.1 DESCRIPTION

Erosion control applies to improvements within the city and as part of the erosion control section of a Storm Water Pollution Prevention Plan (SWPPP). Materials, means and methods for erosion control and stabilization, Best Management Practices (BMPs), Erosion Control Plans (ECPs) and SWPPPs are described in the City of Flagstaff Stormwater Design Manual.

The Contractor shall stabilize all disturbed areas within the project site and as shown on the plans. Work shall be performed according to the provisions of this Section and shall include but not be limited to the furnishing, hauling, placement and application of erosion control materials.

The Contractor is responsible for complying with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit program. This generally includes submittal of a Notice of Intent to the Arizona Department of Environmental Quality (ADEQ) and Notice of Termination to ADEQ for the project. Preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for the site is required per ADEQ and City of Flagstaff standards.

The cost for complying with the NPDES permit and the SWPPP, including the erosion control devices, shall be included in the NPDES & SWPPP Requirements portion of the Contractor's bid. It is recommended that contractors see the ADEQ Smart NOI (Notice of Intent) program website (http://az.gov/webapp/noi/main.do) for information and processes.

Progress payment shall be made based on the Contractor's estimate for percent complete as approved by the Owner.

432.1 NATIVE SEEDING

All areas to be seeded that are accessible to machinery shall be tilled to a minimum depth of four (4) inches. Areas inaccessible to machinery shall be hand tilled and prepared to a minimum depth of two (2) inches. Cut slopes of 2:1 or steeper do not require tilling. Cultivation on sloping terrain shall run perpendicular to the direction to the slope. If weeds or herbaceous plant material interferes with proper seedbed preparation, the contractor shall remove them from the seedbed.

Contractor shall remove and dispose of all debris and other objectionable material that may interfere with seeding operations.

The area to be seeded shall be relatively smooth and all surface irregularities (e.g. rills, tire marks) shall be filled and firmed to conform to the desired cross sections. The seedbed shall be rolled both before and after the seeding operation with a minimum of one pass of a cultipacker or drag harrow.

Seed shall be sown when conditions will promote germination and growth. Normal non-irrigated permanent native seed application dates are between April 1 and June 15, between August 15 and September 20 and after the first frost (recurring overnight temperature of 28 degrees F) until snowfall. Seeding work shall be performed only after planting and other work affecting ground surface is complete.

To assist in establishment of the permanent seed mix, a nurse crop shall be used for this work. Preapproved nurse crop seed shall be one of the following, incorporated with the specified permanent seed mix;

Annual ryegrass	*(Lolium multiflorum)*	30 lbs/acre
Oats	(*Avena sativa)*	60 lbs/acre
Regreen©	(*Triticum aestivum x Elytrigia elongata)*	30 lbs/acre

Alternative species may be acceptable but are subject to prior approval from the City Project Manager or duly authorized representative.

When cut or fill slopes are greater than six (6) feet in height and steeper than 3H:1V, the seeded area shall be covered with American Excelsior Company straw/coconut blanket or an approved equal. Installation shall be per the manufacturer's written directions.

440.10. (D) SEQUENCING
(add the following section)

The irrigation system shall be installed, inspected, approved and operable prior to the installation of plant materials, landscape fabric and ground plane treatments (*decomposed granite, landscape rock, mulch, etc.)*

PART 600 - WATER AND SEWER

SECTION 601 - TRENCH EXCAVATION, BACKFILLING AND COMPACTION

601.2 EXCAVATION:

601.2.1 GENERAL:
(revise to include the following)

All excavation, including trench excavation, shall be performed in any substance and material encountered. The cost is considered incidental to and is to be included in the price for the bid item to be constructed or installed. No special payment shall be made for trench excavation other than rock excavation as specified under Trench Rock Excavation.

Trench Rock Excavation

Trench rock is defined as consolidated igneous, metamorphic and/or sedimentary material in the original bed and/or in well-defined ledges that cannot be removed by a mechanical method and therefore requires pneumatic hammering, drilling or blasting for removal. Example of mechanical methods include hand tools, trenching machine, backhoe, ≥195 horsepower hydraulic excavator with ripping teeth or equivalent.

Boulders and pieces of rock having a volume of more than 27 cubic feet (1 cubic yard) shall be considered rock.

For projects where trench rock excavation is anticipated, the estimated contingent quantity is shown in the proposal under the applicable bid item. The contingency quantity is an estimate only and no guaranty is given that any portion will be utilized. Trench rock excavation will be paid for separately at the unit price bid per cubic yard for Trench Rock Excavation.

Measurement of Trench Rock Excavation shall be per cubic yard in place. This volume of rock will be measured by the City representative, using the maximum trench width allowed in accordance with MAG Table 601-1, the lineal footage of actual rock excavation required and the actual depth of rock as determined by inspection of the trench after rock excavation and before backfilling.

SECTION 611 – WATER, SEWER AND STORM DRAIN TESTING

611.2 DISINFECTING WATER MAINS:

611.2.13 Fire Flow Testing:

(revise to include the following new section)

All water lines that have new fire hydrants shall require a fire flow test per CoF Engineering Standard 13-09-006-0006.1.

Fire flow testing shall be performed by a certified tester. Results shall be sealed by an Arizona Professional Engineer.

The City Water Services Section requires a 72-hour notice via e-mail to schedule hydrant operation and testing observation. A digital copy of the test results shall be submitted to the City Project Manager.

SECTION 631 WATER TAPS AND METER SERVICE CONNECTIONS

(revise to add the following)

631.3 INSTALLATION:

New water service lines shall be installed to replace the existing water service lines. Construction includes replacement of all water services to COF Engineering Standards, including the service saddle at the main, corporation stop, pipe and curb stop to the meter and adjust the customers' service to the new outlet meter coupling elevation. The lines shall be extended to the new polymer meter box location and a new meter box shall be installed and shall connect to the existing meter. If the existing meter is not at the City's standard depth; the contractor shall adjust the elevation of the meter. In cases where the meter box moves, the contractor shall salvage the existing meter and shift it to the proposed location. At each of these locations the contractor is required to connect the existing water services on the private side of the meter. The Contractor shall coordinate with each homeowner where private construction is required to verify the water line rerouting and to restore landscaping to its original condition.

The City will provide the contractor with Temporary Rights of Entry for the water service connection, replacement/adjustment of water meter boxes and associated work. If the contractor needs to go outside the Temporary Right of Entry limits they will have to provide the City with written permission from the property owner prior to conducting the work.

A residential plumber's license will be required for all work that is done on the private service side of the meter.

City of Flagstaff utility tapping fees are the responsibility of the contractor. The contractor shall perform all work and coordinate payment directly with the City Water Services Department. All costs for utility tap work and fees shall be included in the line item for installation of the new service, including but not limited to all labor and materials for complete installation. Repair associated within any abandoned or new tap shall be included in the contract bid item.

SECTION 710 - ASPHALT CONCRETE

710.1 GENERAL:
(revise to include the following)

The asphaltic concrete designation shall be 3/4 inch, except as required by the project plans or Special Provisions.

End of Document

EXHIBIT C - BID SCHEDULE

NAME OF BIDDER HOPE CONSTRUCTION ONE

SPORT COURTS AT BUSHMASTER PARK BASE BID

City of Flagstaff PO No. 24-001550
Requisition No. R24-000333 BID SCHEDULE

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Bid Price Sheet shall result in a determination that a Bid is non-responsive.

No.	Description	Quantity	Unit	Unit Price	Extended Price
1	As-builts	1	LS	$1,500.00	$1,500
2	Construction Staking, Survey, and Layout	1	LS	$35,000.00	$35,000
3	Mobilization (Includes Demobilization, Temporary Fence, Traffic Control, Dust Control, SWPPP, Other Agency Permits, And General Conditions)	1	LS	$125,000.00	$125,000
4	Clearing and Grubbing	1	LS	$6,720.00	$6,720
5	Install Tree Protection Measures	1	LS	$2,000.00	$2,000
6	Remove Existing Tennis Court Fencing, Salvage Nets and Posts	1	LS	$4,200.00	$4,200
7	Demolish Existing Basketball Court and Fencing	1	LS	$4,200.00	$4,200
8	Remove and Salvage Existing Basketball Court Goals and Lighting	1	LS	$1,800.00	$1,800
9	Remove and Salvage Existing Benches, Signs, and Animal Waste Canisters	1	LS	$2,718.00	$2,718
10	Remove and Salvage Existing Light Poles and Demolish Footings (as noted)	1	LS	$7,200.00	$7,200
11	Earthwork (includes placement & compaction and subgrade preparation)	7,752	CY	$51.52	$399,352
12	Remove and Dispose of Concrete Courts Tennis Court to Remain	~~25080~~ 13200	SF	$3.00	$39,600
13	Remove and Dispose of Concrete	11,340	SF	$3.00	$34,020
14	Relocate Equipment Box	1	EA	$0.00	$0
15	Remove and Salvage Riprap	10	SF	$240.00	$2,400
16	Remove and Dispose Tree	22	EA	$390.00	$8,580
17	Adjust Utility Apurtenance	4	EA	$318.00	$1,272
18	2’ Wide Earthen Berm	215	LF	$9,600.00	$9,600

19	Concrete Spillway and Overflow Weir	400	SF	$18.90	$7,560
20	30” Arch SRP Pipe	20	LF	$5,040.00	$5,040
21	Sheet Flow Spreader (MAG Type A Single Curb)	60	LF	$38.40	$2,304
22	LID Mix, 4” Underdrain and Cleanouts	2	EA	$13,104.00	$26,208
23	4” PCC / 3” ABC Concrete Sidewalk	11,800	SF	$14.08	$166,097
25	Concrete Ramp Walkway and Joints (4” Deep) Standard Gray	1000	SF	$14.08	$14,076
26	Pipe Railing at Ramp	238	LF	$181.51	$43,200
27	Concrete Header (6” Deep)	480	LF	$38.40	$18,432
28	Angular Rock (3”-6”) Depth	19,430	SF	$0.79	$15,389
29	Tree (24” Box)	13	EA	$708.00	$9,204
30	Shrub and Groundcover (5 Gallon)	73	EA	$92.40	$6,745
31	Turf – Sod, Mid-Iron Bermuda	5,000	SF	$2.58	$12,900
32	SCH 40 Drip Lateral	1,350	LF	$1.80	$2,430
33	SCH 40 Turf Lateral	500	LF	$1.80	$900
34	SCH 40 Sleeve	200	LF	$16.80	$3,360
35	Drip Control Valve Assembly	2	EA	$360.00	$720
36	Turf Control Valve Assembly	1	EA	$360.00	$360
37	Spray Head	28	EA	$78.00	$2,184
38	Multi-Outlet Emitter	33	EA	$84.00	$2,772
39	Flush Cap Assembly	3	EA	$588.00	$1,764
40	14 Gauge Wire	270	LF	$2.40	$648
41	Pickleball Court Fence (4’) Tall, Side Court Divider	250	LF	$79.18	$19,794
42	Pickleball Court Fence (6’) Tall, Mid-Court Divider	124	LF	$103.80	$12,871
43	Pickleball Court Perimeter Fence (8’) Tall	830	LF	$66.60	$55,278

44	Pickleball Court Gates	5	EA	$780.00	$3,900
45	Pickleball Court (4,555 SF) Post tension slab, acrylic finish, Two Courts	1	LS	$93,511.20	$93,511
46	Pickleball Court Net System, Two Courts	2	EA	$1,080.00	$2,160
47	Pickleball Court (13,398 SF Existing Slab) Acrylic Finish, Six Courts	1	LS	$53,674.80	$53,675
48	Pickleball Court Net System, Six Courts	6	EA	$1,380.00	$8,280
49	Tennis Court Fence (10')	590	LF	$80.28	$47,365
50	Tennis Court Gates	3	EA	$780.00	$2,340
51	Tennis Court (14,650 SF) Post tension slab, acrylic finish, Two Courts	1	LS	$244,522.80	$244,523
52	Tennis Court Net System, Two Courts	2	EA	$1,110.00	$2,220
53	Basketball Court (11,525 SF) Post tension slab, acrylic finish, Two Courts	1	LS	$195,823.20	$195,823
54	Basketball Court Goal	4	EA	$6,674.40	$26,698
55	Construction Access Road (Restore concrete walkways, landscape, irrigation, curbs, grade)	1	LS	$5,000.00	$5,000
56	Electrical System/Lighting	1	LS	$368,000.00	$368,000
TOTAL CONSTRUCTION COST					$2,168,892

* All bids are presumed to include all applicable permits and taxes.

1 Bid assumes all site concrete to be crushed on site for AB for the new site concrete

Approval of Construction Contract for Sport Courts at Bushmaster Park - $2,168,892

History/Previous Council Decisions and/or Community Discussion

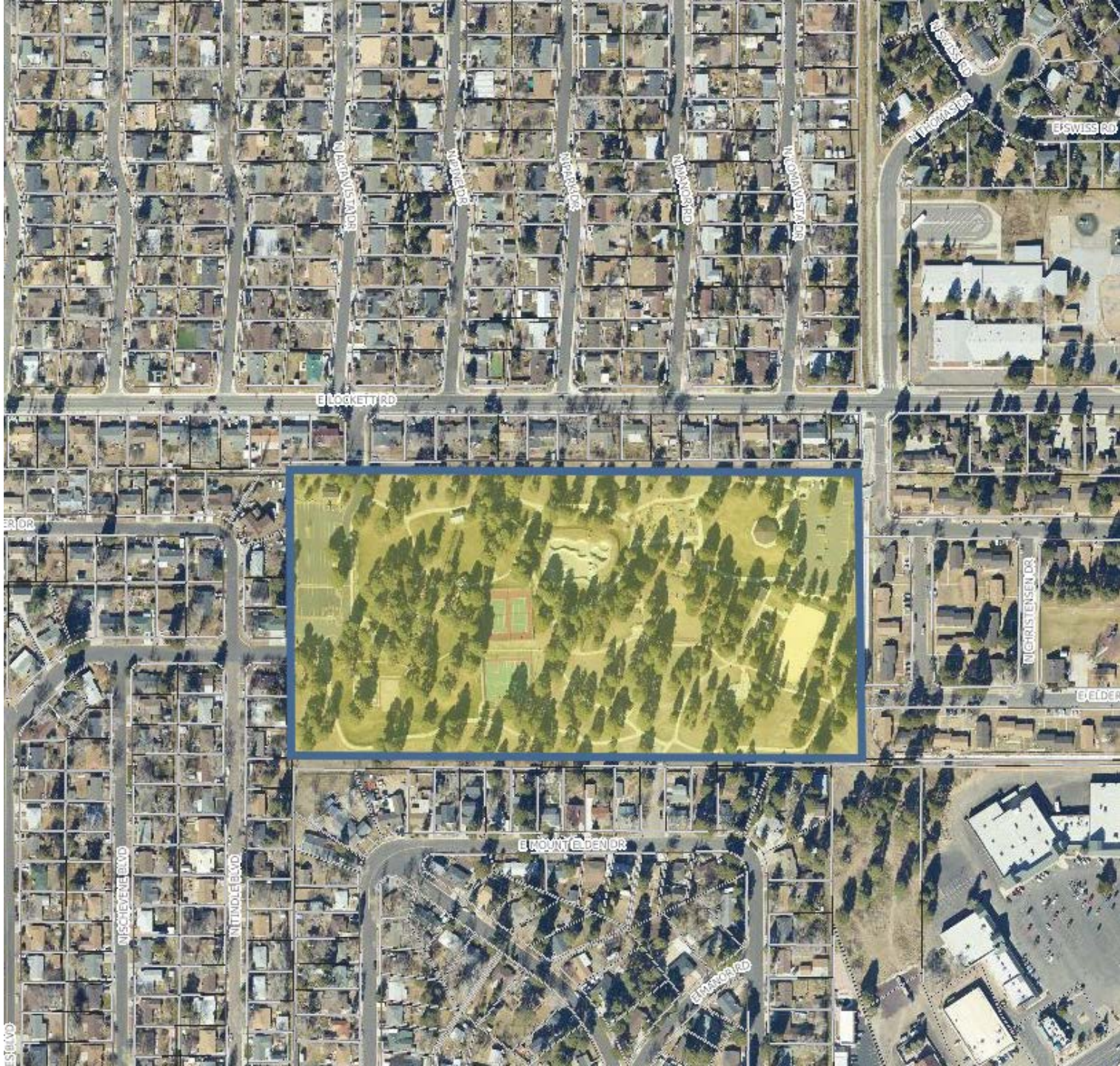
Safe and Healthy Community, Livable Community

Community park in Bushmaster Park (20-acres) classification – ideal location, diverse in nature to serve a broader purpose of recreation, athletics, open spaces

Programming and activation of spaces creates **wanted** behaviors in a space with 5-acres of undeveloped/unprogrammed land

Dual striping of the existing sport courts to add pickleball play in August 2019

Parks and Recreation Commission support and direction in August 2022, February 2023 based on BBB special revenues for capital project



CITY OF FLAGSTAFF

City Council Previous Decisions and/or Community Discussion

May 16, 2023, Consideration and Approval of Contract

June 6, 2023, Citizen Petition Pickleball Reconsideration

July 3, 2023, Consideration of Prior Council Action: Pickleball Courts at Bushmaster Park

July 3, 2023, City of Flagstaff Bushmaster Park Sports Courts

August 28, 2023, Citizen Petition - Pickleball Reconsideration

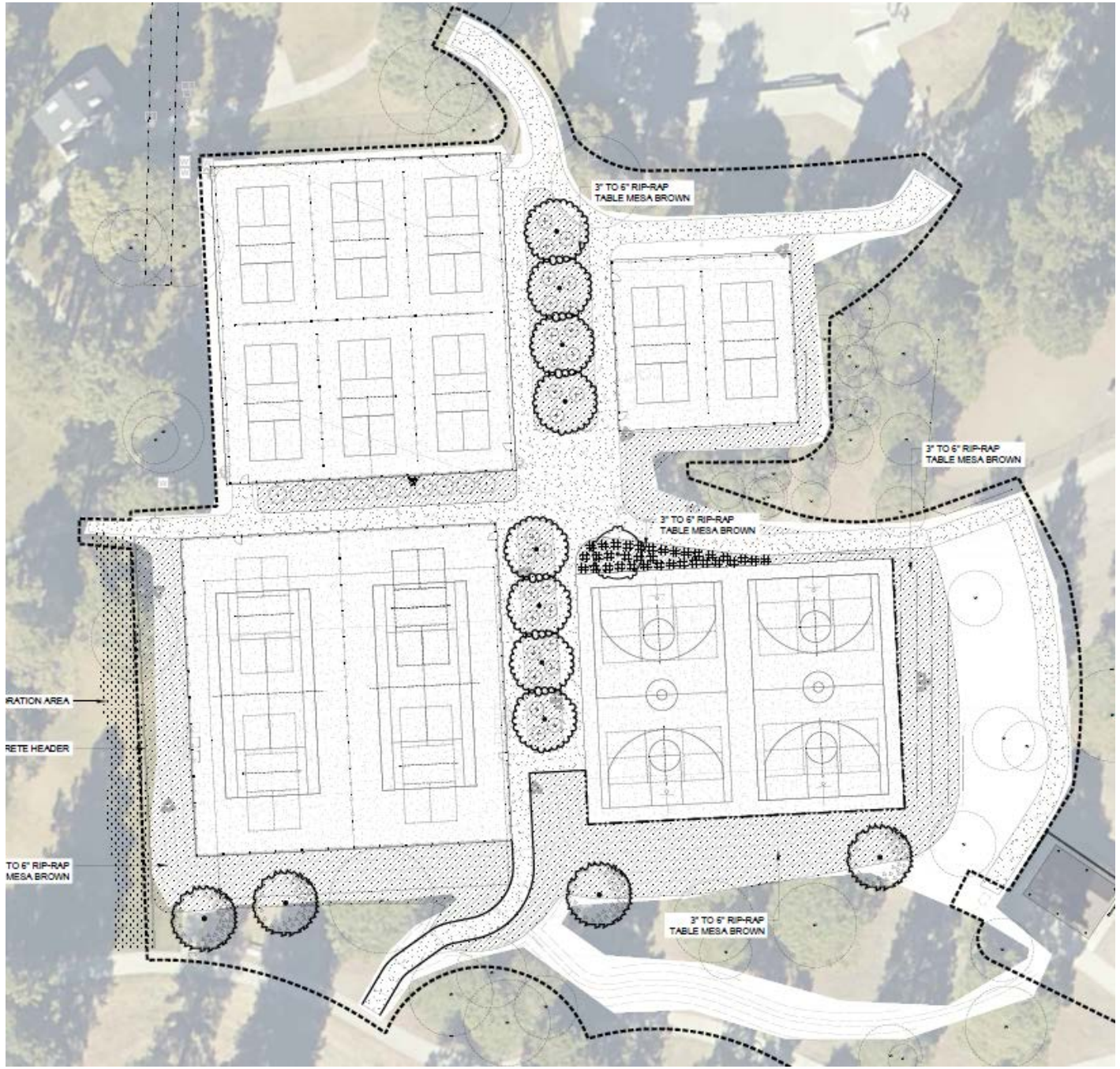
September 5, 2023, FAIR: Discussion about a sound study regarding the pickleball courts at Bushmaster Park

October 17 and November 7, 2023, City Code Changes to Park Hours (and reduced sport court lighting hours)

December 12, 2023, Design Update on Pickleball Courts

Staff worked on the Design Build approved contract with a not to exceed amount of $920,646.

Presented an update on December 12, 2023

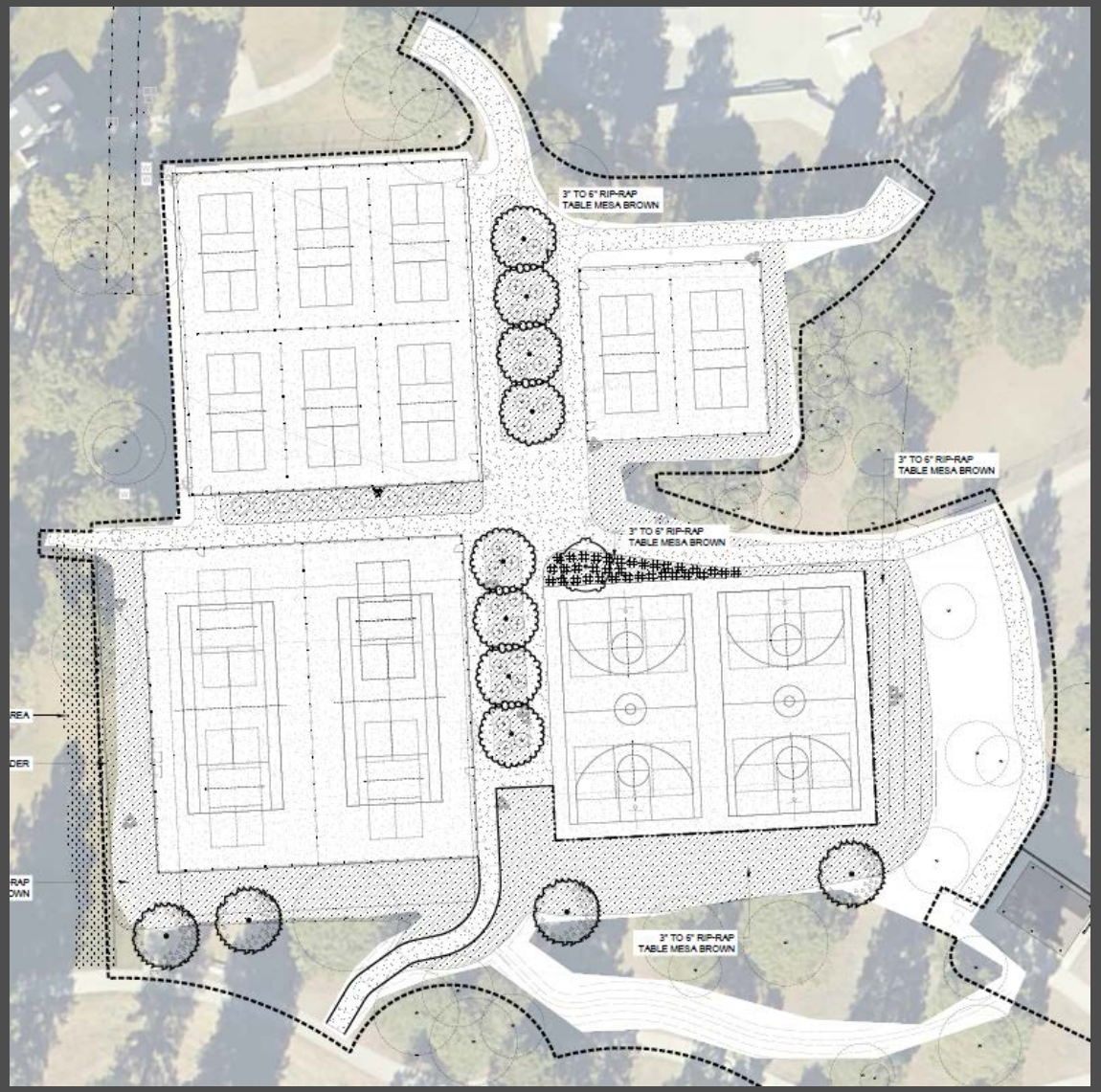


In May of 2024, staff were prepared to present to City Council the “build” portion of the contract; however, costs had escalated upwards of $1.9M

PROSE chose the fiscally responsible option, and withdrew the “build” portion of the contract

In August of 2024, PROSE worked with the design consultant to create a 2nd set of construction drawings with a completely different layout

ORIGINAL DESIGN



2ND DESIGN LAYOUT

Competitive Bid, Result and Contract Award

Hope Construction, in the amount of $2,168,892 for the Original Design

HOPECONSTRUCTION

BE THE CHANGE YOU HOPE TO SEE IN THE WORLD

THANK YOU

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Anja Wendel, Senior Assistant City Attorney AW

Co-Submitter: Rick Tadder, Management Services Director

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Resolution No. 2025-25 and Ordinance No. 2025-11: a resolution of the City Council of the City of Flagstaff, declaring that certain document known as "the 2025 City Tax Code Amendments" as a public record, and providing for an effective date; and an ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, title 3 Business Regulations, by adopting the "2025 City Tax Code Amendments" as set forth in that public record on file wit the City Clerk relating to codification of voter approved sales tax rates and Model City Tax Code Updates, and increasing the use tax rate to match sales tax rates; providing for repeal of conflicting ordinances, severability, clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:

1) Read Resolution No. 2025-25 by title only for the first time
2) City Clerk reads Resolution No. 2025-25 by title only (if approved above)
3) Read Ordinance No. 2025-11 by title only for the first time
4) City Clerk reads Ordinance No. 2025-11 by title only (if approved above)
5) Continue the public hearing

At the May 20, 2025 Council Meeting:

6) Adopt Resolution No. 2025-25
7) Read Ordinance No. 2025-11 by title only for the final time
8) City Clerk reads Ordinance No. 2025-11 by title only (if approved above)
9) Adopt Ordinance No. 2025-11

Executive Summary:

The City is proposing to update the City Tax Code as follows:

- Increase the local transaction privilege tax (sales tax) rate from 2.281% to 2.486% effective July 1, 2025, as approved by a majority of the qualified electors of the City voting in the November 5, 2024 general election to fund public transit. The tax rate for restaurant and hotel classifications (the bed, board and beverage tax) will increase from 4.281% to 4.486%.
- Increase the use tax rate from 2.281% to match the local transaction privilege tax rate of 2.486% effective July 1, 2025. The use tax is a tax on storage or use of tangible personal property in the City for which an equivalent tax has not been paid. A use tax is similar to the local transaction privilege tax, and is classified as "an affiliated excise tax."
- Comply with A.R.S. § 42-6052(H), which provides that the City must adopt changes to the City Tax Code to conform with the Model City Tax Code as adopted by the Model City Tax Code Commission and maintained by the Arizona Department of Revenue. Changes are being made to conform with state laws.

Notice of a public hearing on the proposed City Tax Code changes has been published pursuant to A.R.S. § 42-6054. Notice of proposed increases to the local tax rates has been posted on the City website pursuant to A.R.S. § 9-499.15.The City is proposing to update the City Tax Code as follows:

Financial Impact:
Adopting the tax code changes related to voter approved taxes does not have a financial impact. The adoption of the use tax rate to match the local transaction privilege tax rate will provide an approximate $90,000 to $150,000 revenues for the General Fund of the City. The updates to conform with the Model City Tax Code does not have a financial impact.

Policy Impact:
None.

Previous Council Decision or Community Discussion:
The City voters have approved the local transaction privilege tax (sales tax) rates set forth in the proposed updates to the City Tax Code.

The City Council adopted ballot language for the proposed sales tax rates. The City Council canvassed election results from the general elections where sales tax rates were considered by City voters.

Options and Alternatives to Recommended Action:
1. Approve changes to the local transaction privilege tax (sales tax) rates as approved by the voters; OR do not approve changes, in which case rate changes approved by the voters will not be implemented. If rate changes are not approved, this will have negative financial consequences for the General Fund and public transit.

2. Approve an increase to the use tax rate to match the sales tax rate approved by the voters; OR do not approve the use tax rate increase. The City Council has discretion in this regard. Having the use tax rate match the local sales tax rate may help local businesses, as it eliminates the incentive to purchase goods (for example, a car) outside City limits in order to obtain a lower tax rate, and then use the vehicle within City limits.

3. Approve changes to the City Tax Code required by state law; OR do not approve changes, in which case City will be in violation of state law.

Background and History:
The City Charter, Article VI, Section 2 provides that a majority of the qualified electors in the City voting in a regularly scheduled General Election shall approve any transaction privilege (sales tax) increase. City voters approved continuation of a 1% sales tax that generates revenues for the General Fund at the November 3, 2020 election and approved a 0.205% rate increase at the November 5, 2024 election to generate additional revenues for public transit.

The City Charter does not require voter approval of a use tax rate increase.

The City has not updated its City Tax Code in several years. As a result, the proposed changes encompass several years of changes to the Model City Tax Code and are already being implemented by the Arizona Department of Revenue. Changes to the City Tax Code include those listed below. In general, the changes add more tax exemptions, tax credits, and tax deductions; clarify existing provisions (resulting in less revenue to the City); or are otherwise required by law.

Division 3-05-001 General Conditions and Divisions -0100 General Conditions and Definitions

- Adds definitions of "gross income", "gross proceeds of sales", and "gross receipts". All definitions exclude returned items and cash discounts.
- Amends definition of "manufacturer" so that only a person "who is principally" engaged in manufacturing products from raw or prepared materials is classified as a manufacturer.
- Amends definition of "prosthetic" (multiple revisions).

- Adds definition of "qualifying health sciences educational institution."
- Amends definition of "sale" to include lease, rental, or licensing for use of tangible personal property, and preparation thereof for sale.
- Adds definition of "tangible personal property" to require that it be physical and perceptible to the senses.
- Adds section related to definition of "brokers" and when they are liable for tax.
- Adds section related to "delivery, installation, or other direct customer services" and documentation required to establish that charges are not subject to tax.
- Adds section related to "retailers" and gives the tax collector (ADOR) authority to determine when sales persons or dealers are retailers subject to tax.
- Adds section related to "out-of-city sale/out-of-state sales" to Native Americans and requires that solicitation, delivery, and payment all occur on the reservation (in order to not have been considered to occur within the City).
- Adds section related to "remediation contracting" describing activities exempt from tax.

-0110 Income-Producing Capital Equipment

- Expands definition of "aircraft, navigational and communication instruments" in relation to whom the equipment is sold.
- Adds agricultural-related "new machinery and equipment."
- Deletes "motion picture, multimedia or interactive video production."
- Adds equipment sold to a person engaged in "commercial production of livestock" or projects if used to prevent pollution.
- Adds "qualifying equipment" purchased between June 2004 and June 2024 for processing forest products.
- Deletes equipment "used by a contractor in the performance of a contract."

Division 3-05-004 Privilege Taxes
-0415 Construction Contracting: Construction Contractors

- Adds a "handyman exclusion" as exclusion from tax.
- Adds "maintenance, repair, replacement, or alteration of existing property" as exclusion from tax.
- Adds construction of a facility for "recyling solid waste or producing renewable energy from landfill waste" as an exclusion from tax.
- Adds section regarding "liability for MRRA amounts equal to retail transaction privilege tax due."

-0416 Construction Contracting: Speculative Builders

- Adds "the value of existing tenant leases in place at the time of the sale" as a tax exemption.
- Adds "state and county taxes" paid for a project as a deduction from the selling price.
- Adds "privilege taxes" paid to the city as a tax credit.
- Adds a section "speculative builders: homeowner's bona fide non-business sale of a family residence" as a tax exemption.
- Adds a section defining "reconstruction contracting" which is subject to tax.

-0445 Rental, Leasing, and Licensing for Use of Real Property

- Adds charges for pole usage by or to a "cable operator" as a tax exemption.
- Adds income from rental of "low income units" as a tax exemption.

-0450 Rental, Leasing, and Licensing for use of Tangible Personal Property

- Adds charges for pole usage by or to a "cable operator" as a tax exemption.

-0455 Restaurants and Bars

- Adds sales by a business that contracts with the Department of Economic Security to "elderly or homeless persons or persons with a disability" as a tax exemption.
- Adds sales by a non-profit corporation that contracts with a major league baseball team or national touring professional golfing association as a tax exemption.

- If a tax is imposed on the sale of food (the City does not tax food), then it must be uniform (City cannot impose a higher tax on junk food).

-0460 Retail Sales: Measure of Tax; Burden of Proof; Exclusions

- Adds membership fees charged "by limited access retailers" as taxable income.
- Adds consignment sales as taxable income to the principal (not the agent).
- Adds business activities related to sale or commercial use of "any livestock, agricultural or horticultural product" as subject to the retail tax classification, and lists exemptions.

-0462 Retail Sales: Food for Home Consumption

- Amends definition of "eligible grocery business" from one that is eligible to participate in the federal food stamp program to one that is eligible to participating in the federal supplemental nutrition assistance program.
- Amends definition of "food for home consumption" from food purchased with food stamps to items purchased with couples issued under the supplemental nutrition assistance program.
- Again, requires uniform tax (cities cannot impose higher tax on junk food).

-0465 Retail Sales: Exemptions

- Adds sales in interstate commerce as a tax exemption if federal law prohibits taxation.
- Adds sales of tangible personal property sold to a person engaged in the business of "renting, leasing, or licensing for use" of such property as a tax exemption.
- Adds sales of "motor vehicle fuel and use fuel" and "repair parts" related to harvesting, processing, or transporting forest products as a tax exemption.
- Adds sales of tangible personal property "incorporated or fabricated by the person" into a real estate project or improvement as a tax exemption, if not otherwise subject to tax.
- Adds sales directly to the U.S. government, and sales for a U.S. government manufacturing contract as a tax deduction.
- Adds sales to a "manufacturer, modifier, assembler, or repairer" as exempt from tax.
- Adds 50% of the gross income from sale made directly to the U.S. government that is not already deducted as exempt from tax.
- Defines "overhead materials."
- Defines "subcontract."
- Updates or clarifies tax deduction for a "qualifying health care organization", "qualifying community health center."
- Adds sales to a nonprofit organization "that regularly services means to the needy and indigent" as a tax deduction.
- Adds "sales after June 2001 to a nonprofit charitable organization that provides apartment housing for low-income persons over age 62 as a tax deduction.
- Adds sales to a "qualifying health sciences educational institution" as a tax deduction.
- Adds sales of tangible personal property to one of the above-listed nonprofit/charitable organizations for fabrication into a project as a tax deduction.
- Adds sales related to "livestock and poultry" business as a tax deduction, to include:
  - livestock and poultry;
  - implants used as growth promotants and injectible medicine;
  - neat animals, horses, assess, sheep, ratites, swine or goats for breeding.
- Adds sales of seeds, bulbs, cuttings, etc. for crops in Arizona as tax deduction.
- Adds sales to persons engaged in livestock or poultry business to others in same business as a tax deduction.
- Adds definition of "commercial airline" for purposes of tax deduction.
- Adds the conversion of natural gas into liquefied natural gas for fueling compressor equipment as a tax deduction.
- Adds the transfer of coal "for the purpose of refining coal" as a tax deduction.
- Adds sale of "computer data center equipment" certified by the Arizona Commerce Authority as a tax deduction.
- Adds "sale, manufacture, wholesale, or distribution" of food intended for human consumption and related containers/packaging as a tax deduction.

- Adds equipment "useful to assist a person with certain disabilities as defined by law as a tax deduction.
- Adds software to assess or test student learning or curriculum design purchased by a school district, charter school, community college, or state university as a tax deduction.
- Adds "sales of coal" as a tax deduction.

-0470 Telecommunication Services

- Adds tax credit offset for franchise fees paid.

-0475 Transporting for Hire

- Adds tax exemptions for certain transportation activities (A.R.S. Sections 28-9552, -9551, -9503, -9501)

Division 3-05-005 Administration
-0500 Administration of this Chapter; Rulemaking

- Adds that taxpayers are subject to taxpayer bill of rights (A.R.S. Section 42-2051 et seq.)

-0530 When Tax Due; When Delinquent; Verification of Return; Extensions

- Eliminates option for annual returns.
- Requires electronic filing if business has 2 or more locations or names.
- Allows quarterly filing if annual tax liability is between $2,000 and $8,000.
- Allows annual filing if annual tax liability is less than $2,000.
- All others must remit monthly.

Division 3-05-006 Use Tax
-0660 Use Tax: Exemptions (In general, adds exemptions similar to those added for local transaction privilege taxes)

- Adds a purchase of tangible personal property not exceeding $200/month for personal use outside the U.S. as a tax exemption.
- Adds purchase of tangible personal property for "renting, leasing, or licensing for use" business as a tax exemption.
- Adds purchase of use fuel for a "valid single trip use fuel tax permit" as a tax exemption.
- Adds purchase of natural gas or liquid petroleum gas to propel a motor vehicle as a tax exemption.
- Adds purchase of motor vehicle fuel and use fuel or repair parts by a business engaged in harvesting, processing or transporting forest products as a tax exemption.
- Adds purchase of tangible personal property "incorporated or fabricated by the person" into a real estate project or improvement as a tax exemption, if not otherwise subject to tax, as a tax exemption.
- Adds purchases of tangible personal property by a qualifying hospital, qualifying health care organization, qualifying community health center, nonprofit that regularly serves meals to the needy and indigent, nonprofit charitable organization that provides residential apartment housing to low-income persons over age 62, qualifying health sciences educational institutions, or any persons working on behalf of any of the above where the property is incorporated or fabricated into a project.
- Adds purchase of "livestock and poultry" business as a tax exemption, to include:
  - livestock and poultry;
  - implants used as growth promotants and injectible medicine;
  - neat animals, horses, assess, sheep, ratites, swine or goats for breeding.
- Adds purchases of seeds, bulbs, cuttings, etc. for crops in Arizona as tax exemption.
- Adds sales to persons engaged in livestock or poultry business to others in same business as a tax exemption.
- Adds the transfer of coal "for the purpose of refining coal" as a tax exemption.
- Adds the purchase of "computer data center equipment" certified by the Arizona Commerce Authority as a tax exemption.
- Adds "sale, manufacture, wholesale, or distribution" of food intended for human consumption and related containers/packaging as a tax exemption.
- Adds purchase of equipment "useful to assist a person with certain disabilities as defined by law as a tax exemption.

- Adds purchase of software to assess or test student learning or curriculum design purchased by a school district, charter school, community college, or state university as a tax exemption.

Division 3-05-007 Regulations - Privilege and Excise Taxes
-001 Regulations - Privilege and Excise Taxes
(In general, deletes regulations which have now been revised and relocated to Division 3-05-001 General Conditions and Divisions)

- Deletes regulations related to brokers.
- Delete regulations related to retailers.
- Deletes regulations related to out-of-city/out-of-state sales to Native Americans.
- Deletes regulations related to remedia contracting.
- Deletes regulations related to speculative builders: homeowner's bona fide non-business sale of a family residence.
- Deletes regulations related to reconstruction contracting.
- Deletes regulations related to sale of membership fees by limited access retailers.
- Deletes regulations related to consignment sales.
- Deletes regulations related to sale of aircraft for use outside the state.

Division 3-05-008 Miscellaneous Provisions

- Updates the "sunset dates" for local sales tax rates approved by City voters to match recent elections.

Connection to PBB Priorities and Objectives:
High performing governance: Maintain the organization's fiscal stability through strong financial policies and best practices.

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: Res. 2025-25
2025 City Tax Code Amendments
Ord. 2025-11
Presentation

RESOLUTION NO. 2025-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "*2025 CITY TAX CODE AMENDMENTS*" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full; and

WHEREAS, the City Council of the City of Flagstaff ("City") wish to declare the document entitled "2025 City Tax Code Amendments" to be a public record and to permit its adoption by reference into the City Code.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

That certain document known as the "2025 City Tax Code Amendments" attached hereto as Exhibit A is hereby declared to be a public record, and one (1) paper copy and one (1) electronic copy, maintained in compliance with A.R.S. § 44-7041, shall remain on file with the City Clerk and kept available for public use and inspection.

SECTION 2. Effective Date.

This resolution shall be effective immediately following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of May, 2025.

_____
MAYOR

ATTEST:

_____
CITY CLERK

RESOLUTION NO. 2025-25

APPROVED AS TO FORM:

_____

CITY ATTORNEY

Attachments:
Exhibit A - 2025 City Tax Code Amendments

EXHIBIT A

2025 CITY TAX CODE AMENDMENTS

Section 1: Effective Date of Tax Rate Changes

The tax rate in each of the following sections of the Flagstaff City Code shall be increased from two and two-hundred eighty-one thousandths percent (2.281%) to two and four-hundred eighty-six thousandths percent (2.486%) effective July 1, 2025:

Section 3-05-004-0405	Advertising.
Section 3-05-004-0410	Amusements, exhibitions, and similar activities.
Section 3-05-004-0415	Construction contracting: construction contractors.
Section 3-05-004-0416	Construction contracting: speculative builders.
Section 3-05-004-0417	Construction contracting: owner-builders who are not speculative builders.
Section 3-05-004-0420	Feed at wholesale.
Section 3-05-004-0425	Job printing.
Section 3-05-004-0427	Manufactured buildings.
Section 3-05-004-0430	Timbering and other extraction.
Section 3-05-004-0435	Publishing and periodicals distribution.
Section 3-05-004-0445	Rental, leasing, and licensing for use of real property
Section 3-05-004-0450	Rental, leasing, and licensing for use of tangible personal property.
Section 3-05-004-0460	Retail sales: measure of tax; burden of proof; exclusions.
Section 3-05-004-0470	Telecommunication services.
Section 3-05-004-0475	Transporting for hire.
Section 3-05-004-0480	Utility services.
Section 3-05-006-0610	Use tax: imposition of tax; presumption.

The tax rate in each of the following sections of the Flagstaff City Code shall be increased from four and two-hundred eighty-one thousandths percent (4.281%) to four and four-hundred eighty-six thousandths percent (4.486%) effective July 1, 2025:

Section 3-05-004-0444	Hotels.
Section 3-05-004-0455	Restaurants and bars.

Section 2: In General

The Flagstaff City Code, Title 3, *Business Regulations,* Chapter 3-05, *Privilege and Excise Taxes,* is hereby amended as set forth below (additions are shown in uppercase BLUE TEXT and underlined; deletions are shown in ~~red text~~ with strikethrough)

CHAPTER 3-05
PRIVILEGE AND EXCISE TAXES

DIVISION 3-05-001

GENERAL CONDITIONS AND DEFINITIONS

SECTIONS:

3-05-001-0001 WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES

3-05-001-0100 ~~WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES; AND~~ GENERAL CONDITIONS AND DEFINITIONS~~:~~

3-05-001-0100.1 BROKERS

3-05-001-0100.2 DELIVERY, INSTALLATION, OR OTHER DIRECT CUSTOMER SERVICES

3-05-001-0100.3 RETAILERS

3-05-001-0100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS

3-05-001-0100.5 REMEDIATION CONTRACTING

3-05-001-0110 DEFINITIONS~~:~~; INCOME-PRODUCING CAPITAL EQUIPMENT~~:~~

3-05-001-0115 DEFINITIONS~~:~~; COMPUTER SOFTWARE; CUSTOM COMPUTER PROGRAMMING~~:~~

3-05-001-0120 REPEALED~~:~~

3-05-001-0001 WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES

A. FOR THE PURPOSES OF THIS CHAPTER, ALL WORDS OF TENSE, NUMBER, AND GENDER SHALL COMPLY WITH A.R.S. SECTION 1-214 AS AMENDED.

B. FOR THE PURPOSES OF THIS CHAPTER, ALL CODE REFERENCES, UNLESS SPECIFIED OTHERWISE, SHALL:

1. REFER TO THIS CITY CODE.

2. BE DEEMED TO INCLUDE ALL AMENDMENTS TO SUCH CODE REFERENCES.

3-05-001-0100 ~~WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES; AND~~ GENERAL CONDITIONS AND DEFINITIONS~~:~~

For the purposes of this chapter, the following definitions apply:

"Assembler" means a person who unites or combines products, wares, or articles of manufacture so as to produce a change in form or substance of such items without changing or altering component parts.

"Broker" means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this Chapter, and who receives for his principal all or part of the gross income from the taxable activity.

"Business" includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit, or advantage, either directly or indirectly, but does not include either~~:~~ casual activities or sales~~,~~; or the transfer of electricity from a solar photovoltaic generation system to an electric utility distribution system.

"Business Day" means any day of the week when the Tax Collector's office is open for the public to conduct the Tax Collector's business.

"Casual Activity or Sale" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this Chapter. However, no sale, rental, license for use, or lease transaction concerning real property nor any activity entered into by a business taxable by this Chapter shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets~~,~~; provided~~,~~ that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by ~~Chapter 8.3~~ARTICLE III, CHAPTER 6, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

"Commercial Property" is any real property, or portion of such property, used for any purpose other than lodging or lodging space, including structures built for lodging but used otherwise, such as model homes, apartments used as offices, etc.

"Communications Channel" means any line, wire, cable, microwave, radio signal, light beam, telephone, telegraph, or any other electromagnetic means of moving a message.

"Construction Contracting" refers to the activity of a construction contractor.

"Construction Contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction

contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

"Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer."

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property; provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

"Engaging," when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

"Equivalent Excise Tax" means either:

(1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or

(2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or

(3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

"Federal Government" means the United States Government, its departments and agencies; but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section ~~42-1387~~42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "food" include an edible product, beverage, or ingredient infused, mixed, or in any way combined with medical marijuana or an active ingredient of medical marijuana. (Ord. 2011-21, Amended, 10/18/2011)

“GROSS INCOME” MEANS THE GROSS RECEIPTS OF A TAXPAYER DERIVED FROM TRADE, BUSINESS, COMMERCE, OR SALES AND THE VALUE PROCEEDING OR ACCRUING FROM THE SALE OF TANGIBLE PERSONAL PROPERTY OR SERVICE, OR BOTH, AND WITHOUT ANY DEDUCTION ON ACCOUNT OF LOSSES. “GROSS INCOME” DOES NOT INCLUDE GOODS, WARES, OR MERCHANDISE, OR VALUE THEREOF, RETURNED BY CUSTOMERS IF THE SALE PRICE IS REFUNDED EITHER IN CASH OR BY CREDIT, NOR THE VALUE OF MERCHANDISE TRADED IN ON THE PURCHASE OF NEW MERCHANDISE WHEN THE TRADE-IN ALLOWANCE IS DEDUCTED FROM THE SALES PRICE OF THE NEW MERCHANDISE BEFORE COMPLETION OF THE SALE.

“GROSS PROCEEDS OF SALES” MEANS THE VALUE PROCEEDING OR ACCRUING FROM THE SALE OF TANGIBLE PERSONAL PROPERTY WITHOUT ANY DEDUCTION ON ACCOUNT OF THE COST OF PROPERTY SOLD, EXPENSE OF ANY KIND OR LOSSES, BUT CASH DISCOUNTS ALLOWED AND TAKEN ON SALES ARE NOT INCLUDED AS GROSS INCOME. “GROSS PROCEEDS OF SALES” DO NOT INCLUDE GOODS, WARES, OR MERCHANDISE, OR VALUE THEREOF, RETURNED BY CUSTOMERS IF THE SALE PRICE IS REFUNDED EITHER IN CASH OR BY CREDIT, NOR THE VALUE OF MERCHANDISE TRADED IN ON THE PURCHASE OF NEW MERCHANDISE WHEN THE TRADE-IN ALLOWANCE IS DEDUCTED FROM THE SALES PRICE OF THE NEW MERCHANDISE BEFORE COMPLETION OF THE SALE.

“GROSS RECEIPTS” MEANS THE TOTAL AMOUNT OF THE SALE, LEASE, OR RENTAL PRICE, AS THE CASE MAY BE, OF THE RETAIL SALES OF RETAILERS, INCLUDING ANY SERVICES THAT ARE A PART OF THE SALES, VALUED IN MONEY, WHETHER RECEIVED IN MONEY OR OTHERWISE, INCLUDING ALL RECEIPTS, CASH, CREDITS, AND PROPERTY OF EVERY KIND OR NATURE, AND ANY AMOUNT FOR WHICH CREDIT IS ALLOWED BY THE SELLER TO THE PURCHASER WITHOUT ANY DEDUCTION FROM THE AMOUNT ON ACCOUNT OF THE COST OF THE PROPERTY SOLD, MATERIALS USED, LABOR OR SERVICE PERFORMED, INTEREST PAID, LOSSES, OR ANY OTHER EXPENSE. GROSS RECEIPTS DO NOT INCLUDE CASH DISCOUNTS ALLOWED AND TAKEN NOR THE SALE PRICE OF PROPERTY RETURNED BY CUSTOMERS IF THE FULL SALE PRICE IS REFUNDED EITHER IN CASH OR BY CREDIT.

"Hotel" means any public or private hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer, or other lodging place within the City offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes, or primary health care facilities.

“JET FUEL” MEANS JET FUEL AS DEFINED IN A.R.S. SECTION 42-5351.

"Job Printing" means the activity of copying or reproducing an article by any means, process, or method. "Job printing" includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

"Lessee" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Lessor" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Licensing (for Use)" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

"Lodging (Lodging Space)" means any room or apartment in a hotel or any other provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings or services and accommodations accompanying the use and possession of said dwelling space, including storage or parking space for the property of said tenant.

"Manufactured Buildings" means a manufactured home, mobile home or factory built building, as defined in A.R.S. Section 41-2142.

"Manufacturer" means a person WHO IS PRINCIPALLY engaged ~~or continuing in the business of fabricating, producing, or manufacturing~~ IN THE FABRICATION, PRODUCTION, OR MANUFACTURE OF products, wares, or articles for use from ~~other forms of tangible personal property~~ RAW OR PREPARED MATERIALS, imparting to ~~such~~ THOSE MATERIALS new forms, qualities, properties, and combinations.

"Medical marijuana" means "marijuana" used for a "medical use" as those terms are defined in A.R.S. ~~s~~Section 36-2801. (Ord. 2011-21, Amended, 10/18/2011)

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 3-05-004-0432 for such use. This definition shall not include:

(1) janitorial equipment and supplies.

(2) office equipment, office furniture, and office supplies.

(3) motor vehicles licensed for use upon the highways of the State.

"Modifier" means a person who reworks, changes, or adds to products, wares, or articles of manufacture.

"Nonprofit Entity" means any entity organized and operated exclusively for charitable purposes, or operated by the Federal Government, the State, or any political subdivision of the State.

"Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in such property.

"Out-of-City Sale" means the sale of tangible personal property and job printing if all of the following occur:

(1) transference of title and possession occur without the City; and

(2) the stock from which such personal property was taken was not within the corporate limits of the City; and

(3) the order is received at a permanent business location of the seller located outside the City; which location is used for the substantial and regular conduct of such business sales activity. In no event shall the place of business of the buyer be determinative of the situs of the receipt of the order.

For the purpose of this definition it does not matter that all other indicia of business occur within the City, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-City storehouses and out-of-City retail branch outlets from a primary storehouse within the City.

"Out-of-State Sale" means the sale of tangible personal property and job printing if all of the following occur:

(1) The order is placed from without the State of Arizona; and

(2) the property is delivered to the buyer at a location outside the State; and

(3) the property is purchased for use outside the State.

(Ord. No. 2009-16, Amended, 06/19/2009)

"Owner-Builder" means an owner or lessor of real property who, by himself or by or through others, constructs or has constructed or reconstructs or has reconstructed any improvement to real property.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any political subdivision or agency of this State. For the purposes of this Chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary

corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

"Prosthetic" means any of the following tangible personal property ~~if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian~~:

~~(1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.~~

(1) DRUGS AND MEDICAL OXYGEN, INCLUDING DELIVERY HOSE, MASK OR TENT, REGULATOR AND TANK, ON THE PRESCRIPTION OF A MEMBER OF THE MEDICAL, DENTAL, OR VETERINARIAN PROFESSION WHO IS LICENSED BY LAW TO ADMINISTER SUCH SUBSTANCES.

(2) PROSTHETIC APPLIANCES AS DEFINED IN A.R.S. SECTION 23-501 AND AS PRESCRIBED OR RECOMMENDED BY A HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO A.R.S., TITLE 32, CHAPTER 7, 8, 11, 13, 14, 15, 16, 17, OR 29.

(~~2~~3) insulin, insulin syringes, and glucose test strips ~~sold with or without a prescription~~.

~~(3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.~~

~~(4) drugs or medicine, including oxygen.~~

~~(5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.~~

(4) PRESCRIPTION EYEGLASSES OR CONTACT LENSES.

(5) HEARING AIDS AS DEFINED IN A.R.S. SECTION 36-1901.

(6) durable medical equipment ~~which has a federal health care financing administration~~ THAT HAS A CENTERS FOR MEDICARE AND MEDICAID SERVICES common procedure code, is designated reimbursable by Medicare, IS PRESCRIBED BY A PERSON WHO IS LICENSED UNDER A.R.S.

TITLE 32, CHAPTER 7, 8, 13, 14, 15, 17, OR 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

(7) orthodontic devices dispensed by a dental professional who is licensed under A.R.S. Title 32, Chapter 11, to a patient as part of the practice of dentistry.

(8) under no circumstances shall "prosthetic" include medical marijuana regardless of whether it is sold or dispensed pursuant to a prescription, recommendation, or written certification by any authorized person.

"Qualifying Community Health Center"~~:~~

(1) means an entity that is recognized as nonprofit under Section 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(a) the sole provider of primary care in the community.

(b) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

(2) includes clinics that are being constructed as qualifying community health centers.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses, saves, or invests at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue. Monies that are used, saved, or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent (80%) requirement.

"QUALIFYING HEALTH SCIENCES EDUCATIONAL INSTITUTION" MEANS AN ENTITY THAT IS RECOGNIZED AS NONPROFIT UNDER SECTION 501(C) OF THE UNITED STATES INTERNAL REVENUE CODE AND THAT SOLELY PROVIDES GRADUATE AND POSTGRADUATE EDUCATION IN THE HEALTH SCIENCES. FOR THE PURPOSES OF THIS PARAGRAPH, "HEALTH SCIENCES" INCLUDES MEDICINE,

NURSING, PHYSICIAN'S ASSISTANT STUDIES, PHARMACY, PHYSICAL THERAPY, OCCUPATIONAL THERAPY, BIOMEDICAL SCIENCES, PODIATRY, CLINICAL PSYCHOLOGY, CARDIOVASCULAR SCIENCE, NURSE ANESTHESIA, DENTISTRY, OPTOMETRY, AND VETERINARY MEDICINE.

"Qualifying Hospital" means any of the following:

(1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(2) a licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(3) a hospital, nursing care institution or residential care institution which is operated by the federal government, this State or a political subdivision of this State.

(4) a facility that is under construction and that on completion will be a facility under Subdivision (1), (2) or (3) of this paragraph.

"Receipt (of Notice) by the Taxpayer" means the earlier of actual receipt or the first attempted delivery by certified United States mail to the taxpayer's address of record with the Tax Collector.

"Remediation" means those actions that are reasonable, necessary, cost-effective and technically feasible in the event of the release or threat of release of hazardous substances into the environment such that the waters of the State are or may be affected, such actions as may be necessary to monitor, assess and evaluate such release or threat of release, actions of remediation, removal or disposal of hazardous substances or taking such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the waters of the State which may otherwise result from a release or threat of release of a hazardous substance that will or may affect the waters of the State. Remediation activities include the use of biostimulation with indigenous microbes and bioaugmentation using microbes that are nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities may include community information and participation costs and providing an alternative drinking water supply.

"Rental Equipment" means tangible personal property sold, rented, leased, or licensed to customers to the extent that the item is actually used by the customer for rental, lease, or license to others; provided that:

(1) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

(2) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

(Ord. 2011-21, Amended, 10/18/2011)

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment"; provided, that:

(1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and

(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Repairer" means a person who restores or renews products, wares, or articles of manufacture.

"Resides within the City" means in cases other than individuals, whose legal addresses are determinative of residence, the engaging, continuing, or conducting of regular business activity within the City.

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant," and not a "retailer."

"Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the sale of tangible personal property to a person regularly engaged in the business of selling such property.

"Retailer" means any person engaged or continuing in the business of sales of tangible personal property at retail.

"Sale" means any transfer of title or possession, or both, exchange, barter, LEASE, RENTAL, OR LICENSE FOR USE, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of TANGIBLE PERSONAL property OR OTHER ACTIVITIES TAXABLE UNDER THIS CHAPTER, for a consideration. "Sale" includes any transaction ~~where~~by WHICH the possession of ~~such~~ property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes ~~the fabrication of~~ FABRICATING tangible personal property for consumers who~~, in whole or in part,~~ furnish either directly or indirectly the materials used in such fabrication work. "SALE" ALSO INCLUDES FURNISHING, PREPARING, OR SERVING FOR A CONSIDERATION ANY TANGIBLE PERSONAL PROPERTY CONSUMED ON THE PREMISES OF THE PERSON FURNISHING, PREPARING, OR SERVING THE TANGIBLE PERSONAL PROPERTY.

"Solar Daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a ~~t~~Trombe wall, and not merely as a part of a normal structure, such as a window.

"Speculative Builder" means either:

(1) an owner-builder who sells or contracts to sell, at any time, improved real property (as provided in Section 3-05-004-0416) consisting of:

(a) custom, model, or inventory homes, regardless of the stage of completion of such homes; or

(b) improved residential or commercial lots without a structure; or

(2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:

(a) prior to completion; or

(b) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

"Substantially Complete" means the construction contracting or reconstruction contracting:

(1) has passed final inspection or its equivalent; or

(2) certificate of occupancy or its equivalent has been issued; or

(3) is ready for immediate occupancy or use.

"Supplier" means any person who rents, leases, licenses, or makes sales of tangible personal property within the City, either directly to the consumer or customer or to wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or those engaged in the business of providing services which involve the use, sale, rental, lease, or license of tangible personal property.

"TANGIBLE PERSONAL PROPERTY" MEANS PERSONAL PROPERTY WHICH MAY BE SEEN, WEIGHED, MEASURED, FELT, OR TOUCHED OR IS IN ANY OTHER MANNER PERCEPTIBLE TO THE SENSES.

"Tax Collector" means the city manager or his designee or agent for all purposes under this chapter.

"Taxpayer" means any person liable for any tax under this chapter.

"Taxpayer Problem Resolution Officer" means the individual designated by the City to perform the duties identified in Sections 3-05-005-0515 and 3-05-005-0516. In cities with a population of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the City. In cities with a population of less than 50,000, the Taxpayer Problem Resolution Officer need not be an employee of the City. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the City, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

"Telecommunication Service" means any service or activity connected with the transmission or relay of sound, visual image, data, information, images, or material over a communications channel or any combination of communications channels.

"Transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty (30) consecutive days.

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

(Ord. 1924, 01/07/1997; Ord. 1979, Amended, 10/06/1998; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2013-26, Amended, 01/07/2014)

3-05-001-0100.1 BROKERS

A. FOR THE PURPOSES OF PROPER ADMINISTRATION OF THIS CHAPTER AND TO PREVENT EVASION OF TAXES IMPOSED, BROKERS SHALL BE WHEREVER NECESSARY TREATED AS TAXPAYERS FOR ALL PURPOSES, AND SHALL FILE A RETURN AND REMIT THE TAX IMPOSED ON THE ACTIVITY ON BEHALF OF THE PRINCIPAL. NO DEDUCTION SHALL BE ALLOWED FOR ANY COMMISSIONS OR FEES RETAINED BY SUCH BROKER, EXCEPT AS PROVIDED IN SECTION 3-05-001-0405, RELATING TO ADVERTISING COMMISSIONS.

B. BROKERS FOR VENDORS. A BROKER ACTING FOR A SELLER, LESSOR, OR OTHER SIMILAR PERSON DERIVING GROSS INCOME IN A CATEGORY UPON WHICH THIS CHAPTER IMPOSES A TAX SHALL BE LIABLE FOR SUCH TAX, EVEN IF HIS PRINCIPAL WOULD NOT BE SUBJECT TO THE TAX IF HE CONDUCTED SUCH ACTIVITY IN HIS OWN BEHALF, BY REASON OF THE ACTIVITY BEING DEEMED A "CASUAL" ONE. FOR EXAMPLE:

1. AN AUCTIONEER OR OTHER SALES AGENT OF TANGIBLE PERSONAL PROPERTY IS SUBJECT TO THE TAX IMPOSED UPON RETAIL SALES, EVEN IF SUCH SALES WOULD BE DEEMED "CASUAL" IF HIS PRINCIPAL HAD SOLD SUCH ITEMS HIMSELF.

2. A PROPERTY MANAGER IS SUBJECT TO THE TAX IMPOSED UPON RENTAL, LEASING, OR LICENSING OF REAL PROPERTY, EVEN IF SUCH RENTAL, LEASING, OR LICENSING WOULD BE DEEMED "CASUAL" IF HIS PRINCIPAL MANAGED SUCH REAL PROPERTY HIMSELF.

C. BROKERS FOR VENDEES. A BROKER ACTING SOLELY FOR A BUYER, LESSEE, TENANT, OR OTHER SIMILAR PERSON WHO IS A PARTY TO A TRANSACTION WHICH MAY BE SUBJECT TO THE TAX, SHALL BE LIABLE FOR SUCH TAX AND FOR FILING A RETURN IN CONNECTION WITH SUCH TAX ONLY TO THE EXTENT HIS PRINCIPAL IS SUBJECT TO THE TAX.

D. THE LIABILITY OF A BROKER DOES NOT RELIEVE THE PRINCIPAL OF LIABILITY EXCEPT UPON PRESENTATION TO THE TAX COLLECTOR OF PROOF OF PAYMENT OF THE TAX, AND ONLY TO THE EXTENT OF THE CORRECT PAYMENT. THE BROKER SHALL BE RELIEVED OF THE RESPONSIBILITY TO FILE AND PAY TAXES UPON THE FILING AND CORRECT PAYMENT OF SUCH TAXES BY THE PRINCIPAL.

E. LOCATION OF BUSINESS. RETAIL SALES BY BROKERS ACTING FOR ANOTHER PERSON SHALL BE DEEMED TO HAVE OCCURRED AT THE REGULAR BUSINESS LOCATION OF THE BROKER, IN A MANNER SIMILAR TO THAT USED TO DETERMINE "OUT-OF-CITY SALES'; PROVIDED, HOWEVER, THAN AN AUCTIONEER IS DEEMED TO BE ENGAGED IN BUSINESS AT THE SITE OF EACH AUCTION.

3-01-001-0100.2 DELIVERY, INSTALLATION, OR OTHER DIRECT CUSTOMER SERVICES

A. "DELIVERY CHARGES" EXIST ONLY WHEN THE TOTAL CHARGES TO THE ULTIMATE CUSTOMER OR CONSUMER INCLUDE, AS SEPARATELY CHARGED TO THE ULTIMATE CUSTOMER, CHARGES FOR DELIVERY TO THE ULTIMATE CONSUMER, WHETHER THE PLACE OF DELIVERY IS WITHIN OR WITHOUT THE CITY, AND WHEN THE TAXPAYER'S BOOKS AND RECORDS SHOW THE SEPARATE DELIVERY CHARGES.

1. IDENTIFICATION TO THE CUSTOMER OR CONSUMER THAT THE LISTED PRICE HAS "DELIVERY INCLUDED" OR OTHER SIMILAR EXPRESSION IS INSUFFICIENT TO SHOW THE DELIVERY AS A SEPARATE CHARGE. ONLY THE SEPARATELY STATED CHARGE FOR THE DELIVERY SHALL BE DEEMED A "DELIVERY CHARGE."

2. FREIGHT IN. CHARGES FOR DELIVERY FROM PLACE OF PRODUCTION OR THE MANUFACTURER TO THE VENDOR EITHER DIRECTLY OR THROUGH A CHAIN OF

WHOLESALERS OR JOBBERS OR OTHER MIDDLEMEN ARE DEEMED "FREIGHT-IN" AND ARE NOT CONSIDERED DELIVERY.

B. "INSTALLATION" AS USED IN THIS DEFINITION RELATES ONLY TO ATTACHMENT TO TANGIBLE PERSONAL PROPERTY. INSTALLATION TO REAL PROPERTY IS DEEMED CONSTRUCTION CONTRACTING IN THIS CHAPTER. EXAMPLES OF INSTALLATION RELATING TO TANGIBLE PERSONAL PROPERTY INCLUDE INSTALLING A RADIO IN AN AUTOMOBILE; APPLYING SUN SCREENS ON THE WINDOWS OF A BOAT; INSTALLING CABINETS, CARPETING, OR "BUILT-IN APPLIANCES" TO A CAMPER OR MOTORIZED RECREATIONAL VEHICLE, OR SIMILAR ACTIVITIES.

C. REPAIR OF TANGIBLE PERSONAL PROPERTY IS NOT INCLUDED IN THIS DEFINITION.

D. "DIRECT CUSTOMER SERVICES" MEANS SERVICES OTHER THAN REPAIR RENDERED DIRECTLY TO THE CUSTOMER. SERVICES OR LABOR PROVIDED BY ANY PERSON PRIOR TO THE TRANSFER OF TANGIBLE PERSONAL PROPERTY TO THE CUSTOMER OR CONSUMER ARE NOT INCLUDED IN THIS DEFINITION. IN THE FOLLOWING EXAMPLES, THE REQUIREMENTS OF SUBSECTION E BELOW ARE REFERRED TO BY THE WORDS "IDENTIFY" OR "IDENTIFICATION."

1. A RETAILER SELLS A CUSTOMER A $100 "PLUG-IN" APPLIANCE, WITH A $25 DELIVERY AND INSTALLATION CHARGE. IF THE RETAILER IDENTIFIES THE $25 DELIVERY AND INSTALLATION CHARGE, IT IS A CHARGE FOR DIRECT CUSTOMER SERVICES.

2. A CATERER CHARGES HIS CUSTOMER $1,000 FOR THE FOOD AND DRINK SERVED, $300 FOR SETUP AND SITE CLEANUP, AND $500 FOR BARTENDER AND WAITERS. IF ALL CHARGES ARE PROPERLY IDENTIFIED, ONLY THE $300 FOR SET UP AND CLEANUP IS A CHARGE FOR DIRECT CUSTOMER SERVICES, AND THE $1,500 FOR FOOD AND SERVICE IS CONSIDERED RESTAURANT GROSS INCOME.

3. PERSONS ENGAGED IN ENGRAVING ON WOOD, METAL, STONE, ETC., OR PERSONS ENGAGED IN RETOUCHING PHOTOGRAPHS OR PAINTINGS MAY CONSIDER SUCH CHARGES FOR LABOR AS DIRECT CUSTOMER SERVICES.

4. ALL CHARGES BY A PHOTOGRAPHER RESULTING IN THE SALE OF A PHOTOGRAPH (SITTING FEES, DEVELOPING, MAKING ENLARGEMENTS, RETOUCHING, ETC.) FOR SERVICES THAT OCCUR PRIOR TO TRANSFER OF TANGIBLE PERSONAL PROPERTY ARE NOT DIRECT CUSTOMER SERVICES.

5. AN EQUIPMENT RENTAL COMPANY CHARGING $25 FOR DELIVERY MAY CONSIDER SUCH DELIVERY CHARGE AS A CHARGE FOR DIRECT CUSTOMER SERVICE ONLY IF SUCH CHARGE IS PROPERLY IDENTIFIED.

6. EVEN IF IDENTIFIED, CHARGES FOR LABOR INCURRED IN THE PRODUCTION OF ANY MANUFACTURED ARTICLE OR OF A CUSTOM-MADE ARTICLE (JEWELRY, ARTWORK, TAILORING, DRAPERIES, ETC.) ARE NOT INCLUDED IN THIS DEFINITION, AS SUCH LABOR OCCURS PRIOR TO THE TRANSFER OF PROPERTY.

E. RECORDKEEPING REQUIREMENTS.

1. ANY PERSON WHO ENGAGES IN TRANSACTIONS INVOLVING THESE SERVICES MUST:

(A) SEPARATELY BILL, INVOICE, OR CHARGE THE CUSTOMER FOR SUCH SERVICES IN A MANNER BY WHICH THE CUSTOMER OR CONSUMER MAY READILY IDENTIFY THE SPECIFIC DOLLAR AMOUNT OF THE SERVICE CHARGE; AND

(B) MAINTAIN BUSINESS BOOKS AND RECORDS IN A MANNER IN WHICH THE SEPARATE CHARGE FOR SUCH SERVICES CAN BE CLEARLY IDENTIFIED, TO THE SATISFACTION OF THE TAX COLLECTOR.

2. RENDERING A STATEMENT TO A CUSTOMER FOR A TRANSACTION INVOLVING SUCH SERVICES AND THE TRANSFER OF TANGIBLE PERSONAL PROPERTY WHICH ONLY INDICATES THE TOTAL AMOUNT OF THE CHARGES WITH WORDS SUCH AS “SERVICES INCLUDED” OR "CHARGE INCLUDES LABOR AND PARTS" OR A SIMILAR EXPRESSION DOES NOT SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

3-05-001-0100.3 RETAILERS

WHEN IN THE OPINION OF THE TAX COLLECTOR IT IS NECESSARY FOR EFFICIENT ADMINISTRATION OF THIS CHAPTER, HE MAY REGARD ANY SALES PERSON, REPRESENTATIVE, PEDDLER, CANVASSER, OR AGENT OF ANY DEALER, DISTRIBUTOR, SUPERVISOR, OR EMPLOYER UNDER WHOM HE OPERATES OR FROM WHOM HE OBTAINS TANGIBLE PERSONAL PROPERTY FOR SALE, RENTAL, LEASE, OR LICENSE AS A RETAILER FOR THE PURPOSES OF THIS CHAPTER, IRRESPECTIVE OF WHETHER HE IS MAKING SALES, RENTALS, LEASES, OR LICENSES ON HIS OWN BEHALF OR ON BEHALF OF OTHERS. THE TAX COLLECTOR MAY ALSO REGARD SUCH DEALER,

DISTRIBUTOR, SUPERVISOR, OR EMPLOYER AS A RETAILER FOR THE PURPOSES OF THIS CHAPTER.

3-05-001-0100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS

SALES TO NATIVE AMERICANS OR TRIBAL COUNCILS BY VENDORS LOCATED WITHIN THE CITY SHALL BE DEEMED SALES WITHIN THE CITY, UNLESS ALL OF THE FOLLOWING CONDITIONS EXIST:

(A) THE VENDOR HAS PROPERLY ACCOUNTED FOR SUCH SALES IN A MANNER SIMILAR TO THE RECORDKEEPING REQUIREMENTS FOR OUT-OF-CITY SALES; AND

(B) ALL OF THE FOLLOWING ELEMENTS OF THE SALE EXIST:

(1) SOLICITATION AND PLACEMENT OF THE ORDER OCCURS ON THE RESERVATION; AND

(2) DELIVERY IS MADE TO THE RESERVATION; AND

(3) PAYMENT ORIGINATES FROM THE RESERVATION.

3-05-001-0100.5 REMEDIATION CONTRACTING

THE FOLLOWING ACTIVITIES ARE CONSIDERED REMEDIATION CONTRACTING AND ARE EXEMPT:

(A) EXCAVATION, TRANSPORTATION, TREATMENT, AND/OR DISPOSAL OF CONTAMINATED SOIL FOR PURPOSES OF SITE REMEDIATION (RATHER THAN CHARACTERIZATION);

(B) INSTALLATION OF GROUNDWATER EXTRACTION AND/OR INJECTION WELLS FOR PURPOSES OF GROUNDWATER REMEDIATION;

(C) INSTALLATION OF PUMPS AND PIPING INTO GROUNDWATER EXTRACTION WELLS FOR REMEDIATION PURPOSES;

(D) INSTALLATION OF VAPOR EXTRACTION WELLS FOR THE PURPOSE OF SOIL OR GROUNDWATER REMEDIATION;

(E) CONSTRUCTION OF REMEDIATION SYSTEMS, SUCH AS GROUNDWATER TREATMENT PLANTS, VAPOR EXTRACTION SYSTEMS, OR AIR INJECTION SYSTEMS;

(F) CONNECTION OF REMEDIATION SYSTEMS TO UTILITIES;

(G) ABANDONMENT OF GROUNDWATER OR VAPOR EXTRACTION WELLS;

(H) REMOVAL/DEMOLITION OF REMEDIATION SYSTEMS;

(I) CAPPING/CLOSURE CONSTRUCTION ACTIVITIES;

(J) SERVICE OR HANDLING CHARGES FOR SUBCONTRACTED REMEDIATION CONTRACTING ACTIVITIES.

3-05-001-0110 DEFINITIONS:~~;~~ INCOME-PRODUCING CAPITAL EQUIPMENT~~:~~

A. The following tangible personal property, other than items excluded in subsection ~~(d)~~ D below, shall be deemed "income-producing capital equipment" for the purposes of this Chapter:

1. machinery or equipment used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing," "processing," "fabricating," "job printing," "refining," and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. tangible personal property, sold to persons engaged in business classified under the telecommunications classification, INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 3-05-001-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.

4. machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. pipes or valves four inches (4") in diameter or larger ~~and related equipment,~~ used to transport oil, natural gas, artificial gas, water, or coal slurry~~. For the purpose of this section, related equipment includes:~~ INCLUDING compressor units, regulators, machinery and equipment, fittings, seals, and any other parts that are used in operating the pipes or valves.

6. aircraft, navigational and communication instruments, and other accessories and related equipment sold to:

(a) a person:

(I) holding, OR EXEMPTED BY FEDERAL LAW FROM OBTAINING, a federal certificate of public convenience and necessity ~~or foreign air carrier permit for air transportation~~ for use as, ~~or~~ in conjunction with or becoming a part of AN aircraft to be used to transport persons~~, property or United States mail~~ FOR HIRE in intrastate, interstate or foreign commerce.

(II) THAT IS CERTIFICATED OR LICENSED UNDER FEDERAL AVIATION ADMINISTRATION REGULATIONS (14 CODE OF FEDERAL REGULATIONS PART 121 OR 135) AS SCHEDULED OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE AS OR IN CONJUNCTION WITH OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE.

(III) HOLDING A FOREIGN AIR CARRIER PERMIT FOR AIR TRANSPORTATION FOR USE AS OR IN CONJUNCTION WITH OR BECOMING A PART OF AIRCRAFT TO BE USED TO TRANSPORT PERONS, PROPERTY, OR UNITED STATES MAIL IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE.

(IV) OPERATING AN AIRCRAFT TO TRANSPORT PERSONS IN ANY MANNER FOR COMPENSATION OR HIRE, OR FOR USE IN A FRACTIONAL OWNERSHIP PROGRAM THAT MEETS THE REQUIREMENTS OF FEDERAL AVIATION ADMINISTRATION REGULATIONS (14 CODE OF FEDERAL REGULATIONS PART

19, SUBPART K), INCLUDING AS AN AIR CARRIER, A FOREIGN AIR CARRIER, OR A COMMERCIAL OPERATOR OR UNDER A RESTRICTED CATEGORY, WITHIN THE MEANING OF 14 CODE OF FEDERAL REGULARIONS, REGARDLESS OF WHETHER THE OPERATION OR AIRCRAFT IS REGULATED OR CERTIFIED UNDER PART 91, 119, 121, 133, 135, 136, OR 137, OR ANOTHER PART OF 14 CODE OF FEDERAL REGULATIONS.

(V) THAT WILL LEASE OR OTHERWISE TRANSFER OPERATIONAL CONTROL, WITHIN THE MEANING OF FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS SUCCESSOR, OF THE AIRCRAFT, INSTRUMENTS OR ACCESSORIES TO ONE OR MORE PERSONS DESCRIBED IN ITEM (I), (II), (III), OR (IV) OF THIS SUBDIVISION, SUBJECT TO A.R.S. SECTION 42-5009, SUBSECTION Q.

(b) any foreign government ~~for use by such government outside of this State~~.

(c) persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subdivision also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.

7. machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

8. railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

9. machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

10. buses or other urban mass transit vehicles ~~which~~ THAT are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and ~~which~~ THAT are sold to bus companies holding a federal certificate of convenience and necessity or operated by aNY city, town or other governmental entity or by any person contracting with

such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

11. metering, monitoring, receiving, and transmitting equipment acquired by persons engaged in the business of providing utility services or telecommunications services; but only to the extent that such equipment is to be used by the customers of such persons and such persons separately charge or bill their customers for use of such equipment.

12. groundwater measuring devices required under A.R.S. § 45-604.

13. machinery or equipment used in research and development. ~~In~~ FOR THE PURPOSES OF this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

14. ~~(Reserved)~~ NEW MACHINERY AND EQUIPMENT CONSISTING OF AGRICULTURAL AIRCRAFT, TRACTORS, TRACTOR-DRAWN IMPLEMENTS, SELF-POWERED IMPLEMENTS, MACHINERY AND EQUIPMENT NECESSARY FOR EXTRACTING MILK, AND MACHINERY AND EQUIPMENT NECESSARY FOR COOLING MILK AND LIVESTOCK, AND DRIP IRRIGATION LINES NOT ALREADY EXEMPT UNDER PARAGRAPH 5 OF THIS SUBSECTION AND THAT ARE USED FOR COMMERCIAL PRODUCTION OF AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS IN THIS STATE. FOR THE PURPOSES OF THIS PARAGRAPH:

(A) “NEW MACHINERY AND EQUIPMENT” MEANS MACHINERY AND EQUIPMENT THAT HAVE NEVER BEEN SOLD AT RETAIL EXCEPT PURSUANT TO LEASES OR RENTALS WHICH DO NOT TOTAL TWO YEARS OR MORE.

(B) “AGRICULTURAL AIRCRAFT” MEANS AN AIRCRAFT THAT IS BUILT FOR AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL SEEDING.

(C) "SELF-POWERED IMPLEMENTS" INCLUDES MACHINERY AND EQUIPMENT THAT ARE ELECTRIC-POWERED.

15. included in income producing capital equipment are liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, ~~or~~ research and development or job printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involving direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This subsection does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this code. Chemicals meeting the requirements of this subsection are deemed not to be expendable under subsection (d) of this Section.

16. cleanrooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph ~~(~~13~~)~~ of this subsection, of semiconductor products. For purposes of this paragraph, "cleanroom" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Cleanroom:

(a) includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the cleanroom environment.

(b) does not include the building or other permanent, nonremovable component of the building that houses the cleanroom environment.

~~17. machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:~~

~~(a) "motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, cd-rom, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.~~

~~(b) "soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.~~

17. MACHINERY AND EQUIPMENT THAT ARE SOLD TO A PERSON ENGAGED IN THE COMMERCIAL PRODUCTION OF LIVESTOCK, LIVESTOCK PRODUCTS, OR AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS OR PRODUCTS IN THIS STATE, INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O, IF THE MACHINERY AND EQUIPMENT ARE USED DIRECTLY AND PRIMARILY TO PREVENT, MONITOR, CONTROL, OR REDUCE AIR, WATER, OR LAND POLLUTION.

18. tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part~~s~~ 25 ~~and 100~~.

(b) any satellite television or data transmission facility, if both of the following conditions are met:

(1) over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part~~s~~ 25 ~~and 100~~.

(2) over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For purposes of subdivision (B) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

19. Machinery and equipment that is used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

20. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development that is used directly to meet or exceed rules or regulations adopted by the Federal Energy Regulatory Commission, the United States Environmental Protection Agency, the United States Nuclear Regulatory Commission, the Arizona Department of Environmental Quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the Telecommunications Act of 1996 (PL 104-104; 110 Stat. 56;47 United States Code Section 336) and the Federal Communications Commission order issued April 21, 1997, 47 Code of Federal Regulations ~~p~~Part 73. This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. QUALIFYING EQUIPMENT THAT IS PURCHASED FROM AND AFTER JUNE 30, 2004, THROUGH JUNE 30, 2024, BY A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516. TO QUALIFY FOR THIS

DEDUCTION, THE QUALIFIED BUSINESS AT THE TIME OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT OF REVENUE.

B. The term "income-producing capital equipment" shall further include ancillary machinery and equipment used for the treatment of waste products created by the business activities which are allowed to purchase "income-producing capital equipment" defined in subsection ~~(~~A~~)~~ above.

C. The term "income-producing capital equipment" shall further include repair and replacement parts, other than the items in subsection ~~(d)~~D below, where the property is acquired to become an integral part of another item itemized in subsections ~~(a)~~A or ~~(b)~~B above.

D. The tangible personal property defined as income-producing capital equipment in this Section shall not include:

1. expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsections ~~(a)~~A, ~~(b)~~B, or ~~(c)~~C of this section regardless of the cost or useful life of that property.

2. janitorial equipment and hand tools.

3. office equipment, furniture, and supplies.

4. tangible personal property used in selling or distributing activities, OTHER THAN THE TELECOMMUNICATIONS TRANSMISSIONS DESCRIBED IN SUBSECTION A.18. OF THIS SECTION.

5. motor vehicles required to be licensed by the State of Arizona, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection ~~(a)(10)~~ A.10. above without regard to the use of such motor vehicles.

6. shops, buildings, docks, depots, and all other materials of whatever kind or character not specifically included as exempt.

7. motors and pumps used in drip irrigation systems.

8. MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

E. For the purposes of this Section:

1. "aircraft" includes:

(a) an airplane flight simulator that is approved by the Federal Aviation Administration for use as a Phase II or higher flight simulator under Appendix H, 14 Code of Federal Regulations Part 121.

(b) tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

(Ord. 1851, 01/03/95, Ord. 1979, 10/06/98) (Ord. No. 1979, Enacted, 10/06/98; Ord. No. 1979, Amended, 10/06/98) (Ord. 2008, Amended, 11/02/1999)

3-05-001-0115 DEFINITIONS~~:~~; COMPUTER SOFTWARE~~:~~, CUSTOM COMPUTER PROGRAMMING~~:~~

A. ~~COMPUTER SOFTWARE: Any~~ "COMPUTER SOFTWARE" MEANS ANY computer program, part of such a program, or any sequence of instructions for automatic data processing equipment. Computer software which is not "custom computer programming" is deemed to be tangible personal property for the purposes of this Chapter, regardless of the method by which title, possession, or right to use the software is transferred to the user.

B. ~~CUSTOM COMPUTER PROGRAMMING: Any~~ "CUSTOM COMPUTER PROGRAMMING" MEANS ANY computer software which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer.

1. The term does not include a prewritten program which is held or existing for general or repeated sale, lease, or license, even if the program was initially developed on a custom basis for in-house, or for a single customer's, use.

2. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the customer.

3-05-001-0120 REPEALED:

(Ord. 2013-26, Repealed, 01/07/2014)

DIVISION 3-05-002

DETERMINATION OF GROSS INCOME

SECTIONS:

3-05-002-0200 DETERMINATION OF GROSS INCOME; IN GENERAL:

3-05-002-0210 DETERMINATION OF GROSS INCOME; TRANSACTIONS BETWEEN AFFILIATED COMPANIES OR PERSONS:

3-05-002-0220 DETERMINATION OF GROSS INCOME; ARTIFICIALLY CONTRIVED TRANSACTIONS:

3-05-002-0230 DETERMINATION OF GROSS INCOME BASED UPON METHOD OF REPORTING:

3-05-002-0240 EXCLUSION OF CASH DISCOUNTS, RETURNS, REFUNDS, TRADE-IN VALUES, VENDOR-ISSUED COUPONS, AND REBATES FROM GROSS INCOME:

3-05-002-0250 EXCLUSION OF COMBINED TAXES FROM GROSS INCOME; ITEMIZATION; NOTICE; LIMITATIONS:

3-05-002-0260 EXCLUSION OF FEES AND TAXES FROM GROSS INCOME; LIMITATIONS:

3-05-002-0265 RESERVED:

3-05-002-0266 EXCLUSION OF MOTOR CARRIER REVENUES FROM GROSS INCOME:

3-05-002-0270 EXCLUSION OF GROSS INCOME OF PERSONS DEEMED NOT ENGAGED IN BUSINESS:

3-05-002-0280 ~~EXCLUSION OF TRANSACTIONS WITH SPECIFIED GOVERNMENTAL AGENCIES:~~ RESERVED

3-05-002-0285 RESERVED:

3-05-002-0290 RESERVED:

3-05-002-0200 DETERMINATION OF GROSS INCOME; IN GENERAL:

A. Gross income includes:

1. The value proceeding or accruing from the sale of property, the providing of service, or both.

2. The total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.

3. All receipts, cash, credits, barter, exchange, reduction of or forgiveness of indebtedness, and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.

4. All other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.

B. Barter, exchange, trade-outs, or similar transactions are includable in gross income at the fair market value of the service rendered or property transferred, whichever is higher, as they represent consideration given for consideration received.

C. No deduction or exclusion is allowed from gross income on account of the cost of the property sold, the time value of money, expense of any kind or nature, losses, materials used, labor or service performed, interest paid, or credits granted.

D. For the purposes of this chapter the total amount of gross income, gross receipts or gross proceeds of sales for nuclear fuel shall be deemed to be the value of the purchase price of uranium oxide used in producing the fuel. The tax imposed by this chapter may be imposed only once for any one quantity or batch of nuclear fuel regardless of the number of transactions or financing arrangements which may occur with respect to that nuclear fuel. (Ord. 2013-26, Amended, 01/07/2014)

3-05-002-0210 DETERMINATION OF GROSS INCOME: TRANSACTIONS BETWEEN AFFILIATED COMPANIES OR PERSONS:

In transactions between affiliated companies or persons, or in other circumstances where the relationship between the parties is such that the gross income from the transaction is not indicative of the market value of the subject matter of the transaction, the Tax Collector shall determine the "market value" upon which the City privilege and use taxes shall be levied. "Market value" shall correspond as nearly as possible to the gross income from similar transactions of like quality or character by other taxpayers where no common interest exists between the parties, but otherwise under similar circumstances and conditions.

3-05-002-0220 DETERMINATION OF GROSS INCOME: ARTIFICIALLY CONTRIVED TRANSACTIONS:

The Tax Collector may examine any transaction, reported or unreported, if, in his opinion, there has been or may be an evasion of the taxes imposed by this Chapter and to estimate the amount subject to tax in cases where such evasion has occurred. The Tax Collector shall disregard any transaction which has been undertaken in an artificial manner in order to evade the taxes imposed by this Chapter.

3-05-002-0230 DETERMINATION OF GROSS INCOME BASED UPON METHOD OF REPORTING:

The method of reporting chosen by a taxpayer, as provided in Section 3-05-005-0520, necessitates the following adjustments to gross income for all purposes under this Chapter:

(a) Cash Basis: When a person elects to report and pay taxes on a cash basis, gross income for the reporting period shall include:

(1) The total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and

(2) All amounts received on accounts receivable, conditional sales contract, or other similar transactions, against which no deductions and no exclusions from gross income are allowed. Interest on finance contracts may be deducted if separately itemized on all books and records.

(b) Accrual Basis: When a person elects to report and pay taxes on an accrual basis, gross income shall include all gross income for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions, and regardless of whether or not any security document or instrument is sold, assigned, or otherwise transferred to another. Persons reporting on the accrual basis may deduct bad debts, provided that:

(1) The amount deducted for the bad debt must be deducted from gross income of the month in which the actual charge-off was made, and only to the extent that such amount was actually charged off, and also only to the extent that such amount is or was included as taxable gross income; and

(2) If any amount is subsequently collected on such charged-off account, it shall be included in gross income for the month in which it was collected, without deduction for expense of collection. (Ord. 1924, 01/07/97)

3-05-002-0240 EXCLUSION OF CASH DISCOUNTS, RETURNS, REFUNDS, TRADE-IN VALUES, VENDOR-ISSUED COUPONS, AND REBATES FROM GROSS INCOME:

(a) The following items are not included in gross income:

(1) Cash discounts allowed by the vendor for timely payment, but only discounts allowed against taxable gross income.

(2) The value of property returned by customers to the extent of the amount actually refunded either in cash or by credit and the amount refunded was included in taxable gross income.

(3) The trade-in allowance for tangible personal property accepted as payment, not to exceed the full sales price for any tangible personal property sold, when the full sales price is included in taxable gross income. Trade-in allowances are not allowed for manufactured buildings taxable under Section 3-05-004-0427.

(4) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from gross income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by any person other than the vendor may not be excluded from gross income.

(5) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from gross income as cash discount. Rebates issued by a person other than the vendor may not be excluded from gross income, even when the vendee assigns his right to the rebate to the vendor.

(6) In computing the tax base, gross proceeds of sales or gross income does not include a manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

(b) If the amount specified in subsection A. above is credited by a vendor subsequent to the reporting period in which the original transaction occurs, such amount may be excluded from the taxable gross income of that subsequent reporting period, but only to the extent that the excludable amount was reported as taxable gross income in that prior reporting period. (Ord. 1924, 01/07/97)

3-05-002-0250 EXCLUSION OF COMBINED TAXES FROM GROSS INCOME; ITEMIZATION; NOTICE; LIMITATIONS.

A. When Tax is Separately Charged and/or Collected: The total amount of gross income shall be exclusive of combined taxes only when the person upon whom the tax is imposed shall establish to the satisfaction of the Tax Collector that such tax has been added to the total price of the transaction. The taxpayer must provide to his customer and also keep a reliable record of the actual tax charged or collected, shown by cash register tapes, sales tickets, or other accurate record, separating net transaction price and combined tax. If at any time the Tax Collector cannot ascertain from the records kept by the taxpayer the total or amounts billed or collected on account of combined taxes, the claimed taxes collected may not be excluded from gross income, unless such records are completed and/or clarified to the satisfaction of the Tax Collector.

1. Remittance of all tax charged and/or collected. When an added charge is made to cover City (or combined) privilege and use taxes, the person upon whom the tax is imposed shall pay the full amount of the City taxes due, whether collected by him or not, and in the event he collects more than the amount due he shall remit the excess to the Tax Collector. In the event the Tax Collector cannot ascertain from the records kept by the taxpayer the total or amounts of taxes collected by him, and the Tax Collector is satisfied that the taxpayer has collected taxes in an amount in excess of the tax assessed under this chapter, the Tax Collector may determine the amount collected and collect the tax so determined in the manner provided in this chapter.

2. Itemization. A taxpayer, in order to be entitled to exclude from his gross income any amounts paid to him by customers for combined taxes passed on to the customer, must prove that he has provided his customer with a written record of the transaction showing at a minimum the price before the tax, the combined taxes, and the total cost. This shall be additional to the record required to be kept under subsection ~~(~~A~~)~~ of this section.

B. When Tax Has Been Neither Separately Charged Nor Separately Collected: When the person upon whom the tax is imposed shall establish by means of invoices, sales tickets, or other reliable evidence, that no added charge was made to cover combined taxes, the taxpayer may exclude tax collected from such income by dividing such taxable gross income by ~~one (~~1.00~~)~~ plus a decimal figure representing the effective combined tax rate expressed as a fraction of ~~one (~~1.00~~)~~.

3-05-002-0260 EXCLUSION OF FEES AND TAXES FROM GROSS INCOME; LIMITATIONS~~S~~

A. There shall be excluded from gross income of vendors of motor vehicles those motor vehicle registration fees, license fees and taxes, and lieu taxes imposed pursuant to A.R.S. Title 28 in connection with the initial purchase of a motor vehicle, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser of the motor vehicle by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Division 3-05-003, regarding recordkeeping, are met. For the purpose of the exclusion provided by this subsection only, the terms vendor and vendee shall also apply to a lessor and lessee respectively, of a motor vehicle if, in addition to all other requirements of this subsection, the lease agreement specifically requires the lessee to pay such fees or taxes, and such amounts are separately itemized in the documentation provided to the lessee.

B. There shall be excluded from gross income of vendors at retail of heavy trucks and trailers, the amount attributable to Federal excise taxes imposed by 26 U.S.C. Section 4051, but only to the extent that the provisions of Division 3-05-003, relating to recordkeeping, have been met:~~.~~

C. There shall be excluded from gross income the following fees, taxes, and lieu taxes, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Division 3-05-003, regarding recordkeeping, are met:

1. Emergency telecommunication services excise tax imposed pursuant to A.R.S. Section 42-5252. "Emergency telecommunication services" means telecommunication services or systems that use number 911 or a similarly designated telephone number for emergency calls;

2. The telecommunication devices for the deaf and the severely hearing and speech impaired excise tax imposed pursuant to A.R.S. Section 42-5252;

3. Federal excise taxes on communications services as imposed by 26 U.S.C. Section 4251;

4. Car rental surcharge imposed pursuant to A.R.S. Section 48-4234;

5. Federal excise taxes on passenger vehicles as imposed by 26 U.S.C. Section 4001(.01);

6. Waste tire disposal fees, imposed pursuant to A.R.S. Section 44-1302.

D. There shall be excluded from gross income of vendors of motor vehicles dealer documentation fees, but only to the extent that such fees have been separately itemized and collected from the purchaser of the motor vehicle by the vendor. (Ord. 1924, 01/07/97; Ord. 2004-25, Amended, 01/10/05; Ord. 2007-28, Amended, 05/01/2007)

3-05-002-0265 RESERVED:

3-05-002-0266 EXCLUSION OF MOTOR CARRIER REVENUES FROM GROSS INCOME:

There shall be excluded from gross income the gross proceeds of sale or gross income derived from any of the following:

A. A motor carrier's use on the public highways in this State if the motor carrier is subject to a fee prescribed in A.R.S. Title 28, Chapter 15, Article 4, or A.R.S. Title 28, Chapter 16, Article 4.

B. Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under A.R.S. Title 28, Chapter 16.

C. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle, to a motor carrier who is subject to a fee prescribed in A.R.S. Title 28, Chapter 16 and who is engaged in the business of leasing, renting or licensing such property.

D. For the purposes of these exclusions, "motor carrier" includes a motor vehicle weighing 26,000 pounds or more, a lightweight motor vehicle which weighs 12,001 pounds to 26,000 pounds and a light motor vehicle weighing 12,000 pounds or less, which pay the fee prescribed in A.R.S. Title 28, Chapter 15 or A.R.S. Title 28, Chapter 16. (Ord. 1979, Amended, 10/06/98; Ord. 2007-28, Amended, 05/01/2007)

3-05-002-0270 EXCLUSION OF GROSS INCOME OF PERSONS DEEMED NOT ENGAGED IN BUSINESS:

A. For the purposes of this section, the following definitions shall apply:

1. "Federally exempt organization" means an organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity," "non-licensed business," or "public educational entity."

2. "Governmental entity" means the Federal government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further, that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.

3. "Non-licensed business" means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this chapter.

4. "Proprietary club" means any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 502(c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.

5. "Public educational entity" means any educational entity operated pursuant to any provisions of A.R.S. Title 15.

B. Transactions which, if conducted by any other person, would produce gross income subject to tax under this chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by regulation; or non-licensed business.

C. Transactions which, if conducted by any other person, would produce gross income subject to the tax under this chapter shall not be subject to the IMPOSITION OF SUCH tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:

1. Transactions involving proprietary clubs and organizations exempt under 26 U.S.C. Section 501(c)(7), (8), and (9), where the gross revenue of the activity received from persons other than members and bona fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.

2. Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and the administrative interpretations and guidelines.

3. Reserved.

D. Except as may be provided elsewhere in this chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:

1. A statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay City privilege tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and

2. The privilege license number of the otherwise exempt vendee; and

3. Such other information as the Tax Collector may require.

E. Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or non-licensed business shall not be considered to be such an exempt organization, club, entity, or non-licensed business, but shall be deemed to be a taxpayer subject to the provisions of this chapter, except as provided in the definition of governmental entity, regarding urban mass transit.

F. In any case, if a federally exempt organization, proprietary club, or non-licensed business rents, leases, licenses, or purchases any tangible personal property for its own storage or use, and no City privilege or use tax or equivalent excise tax has been paid on such transaction, said organization, club, or business shall be liable for the use tax upon such acquisitions or use of such property. (Ord. 2014-16, Amended, 07/15/2014)

3-05-002-0280 ~~EXCLUSION OF TRANSACTIONS WITH SPECIFIED GOVERNMENTAL AGENCIES:~~ RESERVED

~~Notwithstanding provisions contained elsewhere in this Chapter, "gross income" derived from transactions that would be deemed taxable, if conducted with or for other customers or consumers, shall be deemed exempt from the taxes imposed by this Chapter when the customer or consumer is (effective 07/01/01, Ordinance No. 2001-04):~~

~~A. Reserved.~~

~~B. Reserved.~~

~~C. Reserved.~~

~~D. Reserved.~~

~~E. Reserved.~~

~~(Ord. 2001-04, Amended, 01/16/2001; Ord. 2000-29, Amended, 11/21/2000)~~

3-05-002-0285 RESERVED~~:~~

3-05-002-0290 RESERVED~~:~~

DIVISION 3-05-003
LICENSING AND RECORDKEEPING

SECTIONS:

3-05-003-0300 LICENSING REQUIREMENTS

3-05-003-0310 LICENSING: SPECIAL REQUIREMENTS

3-05-003-0320 LICENSE FEES; ANNUAL RENEWAL; RENEWAL FEES

3-05-003-0330 LICENSING: DURATION; TRANSFERABILITY; DISPLAY; PENALTIES; PENALTY WAIVER; RELICENSING; FEES COLLECTIBLE AS IF TAXES

3-05-003-0340 LICENSING: CANCELLATION; REVOCATION

3-05-003-0350 OPERATING WITHOUT A LICENSE

3-05-003-0360 RECORDKEEPING REQUIREMENTS

3-05-003-0362 RECORDKEEPING: INCOME

3-05-003-0364 RECORDKEEPING: EXPENDITURES

3-05-003-0366 RECORDKEEPING: OUT-OF-CITY AND OUT-OF-STATE SALES

3-05-003-0370 RECORDKEEPING: CLAIM OF EXCLUSION, EXEMPTION, DEDUCTION, OR CREDIT; DOCUMENTATION; LIABILITY

3-05-003-0372 PROOF OF EXEMPTION: SALE FOR RESALE; ~~SALE,~~ RENTAL, LEASE, OR LICENSE OF RENTAL EQUIPMENT

3-05-003-0380 INADEQUATE OR UNSUITABLE RECORDS

3-05-003-0300 LICENSING REQUIREMENTS

A. The following persons shall make application to the Tax Collector for a transaction privilege and use tax license and no person shall engage or continue in business or engage in such activities until he shall have such a license:

1. Every person engaging or continuing in business activities within the City or Town upon which a transaction privilege tax is imposed by this chapter.

2. Every person engaging or continuing in business within the City or Town and storing or using tangible personal property in this municipality upon which a use tax is imposed by this chapter.

3. (Reserved)

B. For the purpose of determining whether a transaction privilege and use tax license is required, a person shall be deemed to be "engaging or continuing in business" within the City or Town if:

1. Engaging in any activity as a principal or broker, the gross receipts of which may be subject to transaction privilege tax under Division 3-05-004; or

2. Maintaining within the City or Town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business; maintaining within the City or Town directly, or if a corporation by a subsidiary, any real or tangible personal property; or having any agent or other representative operating within the City or Town under the authority of such person, or if a corporation by a subsidiary, irrespective of whether such place of business, property, or agent or other representative is located here permanently or temporarily; or

3. Soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the City or Town from customers, consumers, or users located within the City or Town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this City or Town.

4. A person shall also be deemed to be "engaging or continuing in business" if engaging in any activity subject to use tax under Division 3-05-006 for business purposes. Individuals who acquire items subject to use tax for their own personal use or their family's personal use are not required to obtain a license.

5. (Reserved)

C. A person engaging in more than one (1) activity subject to transaction privilege tax at any one (1) business location is not required to obtain a separate license for each activity**;** provided**,** that at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged.

D. The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.

E. Limitation. The issuance of a transaction privilege and use tax license by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

F. Casual Activity. For the purposes of this chapter, individuals engaging in a "casual activity or sale" are not subject to the license requirements imposed under this division~~;~~ provided~~,~~ that they are only engaged in private sales activities, such as the sale of a personal automobile or garage sale, on no more than three (3) separate occasions during any calendar year. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0310 LICENSING: SPECIAL REQUIREMENTS

A. Partnerships. Application for a transaction privilege and use tax license for a partnership engaging or continuing in business shall provide, as a minimum, the names and addresses of all general partners. Licenses issued to persons engaging in business as partners, limited or general, shall be in the name of the partnership.

B. Limited Liability Companies. Application for a transaction privilege and use tax license for a limited liability company (LLC) engaging or continuing in business shall provide, as a minimum, the names and addresses of all members and the manager. Licenses issued to persons engaging in business as limited liability companies shall be in the name of the LLC.

C. Corporations. Application for a transaction privilege and use tax license for a corporation engaging or continuing in business shall provide, as a minimum, the names and addresses of both the chief executive officer and chief financial officer of the corporation. Licenses issued to persons engaging in business as corporations shall be in the name of the corporation.

D. Multiple Locations or Multiple Business Names. A person engaging or continuing in one (1) or more businesses at two (2) or more locations or under two (2) or more business names shall procure a license for each such location or business name. A "location" is a place of a separate business establishment.

E. Real Property Rental, Leasing, and Licensing for Use. In all cases the transaction privilege and use tax license shall be issued only to the owner of the real property regardless of the owner engaging a property manager or other broker to oversee the owner’s business activity including filing tax returns on behalf of the owner. Each rental property that can be independently sold or transferred is deemed to be a separate business establishment. Each platted parcel of real property subject to the tax imposed by this chapter is deemed to be a separate business establishment and requires a separate license, regardless of the number of rental units located on that platted parcel. If one (1) structure is located on multiple parcels in a manner such that ownership of an individual parcel cannot be sold or transferred without requiring alteration to divide the structure, one (1) license shall be required for all affected parcels. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0320 LICENSE FEES; ANNUAL RENEWAL; RENEWAL FEES

A. The transaction privilege and use tax license shall be valid upon receipt of a nonrefundable license fee of twenty dollars ($20.00), except for a license to engage in the business activity of residential or commercial real property rental, leasing, and licensing for use as separately identified in this section. The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of twenty dollars ($20.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such annual renewal fee shall be due and payable on January 1~~st~~ of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

B. The transaction privilege and use tax license to engage in the business activity of residential real property rental, leasing, and licensing for use shall be valid only upon receipt of a nonrefundable license fee of twenty dollars ($20.00). The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of twenty dollars ($20.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1~~st~~ of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

C. The transaction privilege and use tax license to engage in the business activity of commercial real property rental, leasing, and licensing for use shall be valid only upon receipt of a non-refundable license fee of twenty dollars ($20.00). The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of twenty dollars ($20.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1~~st~~ of each year and shall be considered delinquent if not paid and received on or before the last business day of January. (Ord. 2015-05, Enacted, 05/19/2015; Ord. 2018-22, Amended, 06/19/2018)

3-05-003-0330 LICENSING: DURATION; TRANSFERABILITY; DISPLAY; PENALTIES; PENALTY WAIVER; RELICENSING; FEES COLLECTIBLE AS IF TAXES

A. The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying the applicable license renewal fee for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1~~st~~ of each year and shall be considered delinquent if not paid and received on or before the last business day of January. Application and payment of the annual fee must be received in the Tax Collector's office to be deemed paid and received.

B. The transaction privilege and use tax license shall be nontransferable between owners or locations, and shall be on display to the public in the licensee's place of business.

C. Any person required to be licensed under this chapter who fails to obtain a license on or before conducting any business activity requiring such license shall be subject to the license fees due for each year in business plus a penalty in the amount of fifty percent (50%) of the applicable fee for each period of time for which such fee would have been imposed, from and after the date on which such activity commenced until paid. This penalty shall be in addition to any other penalty imposed under this chapter and must be paid prior to the issuance of any license. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 3-05-005-0540.

D. Any licensee who fails to renew his license on or before the due date shall be deemed to be operating without a license following such due date, and shall be subject to all penalties imposed under this chapter against persons required to be licensed and operating without a license. The non-licensed status may be removed by payment of the annual license fee for each year or portion of a year he operated without a license, plus a license fee penalty of fifty percent (50%) of the license fee due for each year. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 3-05-005-0540.

E. Any licensee who permits his license to expire through cancellation as provided in Section 3-05-003-0340, by his request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued, and who thereafter applies for a license, shall be granted a new license as a new applicant and shall pay the current license fee imposed under Section 3-05-003-0320.

F. Any licensee who needs a copy of his transaction privilege and use tax license which is still in effect shall be charged the current license fee for each reissuance of a license.

G. Any person conducting a business activity subject to licensing without obtaining a transaction privilege and use tax license shall be liable to the City for all applicable fees and penalties and shall be subject to the provisions of Sections 3-05-005-0580 and 3-05-005-0590, to the same extent as if such fees and penalties were taxes and penalties under such sections. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0340 LICENSING: CANCELLATION; REVOCATION

A. Cancellation. The Tax Collector may cancel the transaction privilege and use tax license of any licensee as "inactive" if the taxpayer, required to report monthly, has neither filed any return nor remitted any taxes imposed

by this chapter for a period of six (6) consecutive months; or, if required to report quarterly, has neither filed any return nor remitted any taxes imposed by this chapter for two (2) consecutive quarters; or, if required to report annually, has neither filed any return nor remitted any taxes imposed by this chapter when such annual report and tax are due to be filed with and remitted to the Tax Collector.

B. Revocation. If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid under this chapter, or if such licensee fails to comply with any other provisions of this chapter, the Tax Collector may revoke the transaction privilege and use tax license of said licensee.

C. Notice and Hearing. The Tax Collector shall deliver notice to such licensee of cancellation or revocation of the transaction privilege and use tax license. If the licensee requests a hearing within twenty (20) days of receipt of such notice, he shall be granted a hearing before the Tax Collector.

D. After cancellation or revocation of a taxpayer's license, the taxpayer shall not be issued a new license until all reports have been filed; all fees, taxes, interest, and penalties due have been paid; and he is in compliance with all provisions of this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0350 OPERATING WITHOUT A LICENSE

It shall be unlawful for any person who is required by this chapter to obtain a transaction privilege and use tax license to engage in or continue in business without a license. The Tax Collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0360 RECORDKEEPING REQUIREMENTS

A. It shall be the duty of every person subject to the tax imposed by this chapter to keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this chapter. The books and records must contain, at a minimum, such detail and summary information as may be required by this division; or when records are maintained within an electronic data processing (EDP) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period for assessment of tax, and all such books and records shall be open for inspection by the Tax Collector during any business day.

B. The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:

1. Only for future reporting periods; and

2. Only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the taxing jurisdiction to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0362 RECORDKEEPING: INCOME

The minimum records required for persons having gross income subject to, or exempt or excluded from, tax by this chapter must show:

A. The gross income of the taxpayer attributable to any activity occurring in whole or in part in the City.

B. The gross income taxable under this chapter, divided into categories as stated in the official City tax return.

C. The gross income subject to Arizona transaction privilege taxes, divided into categories as stated in the official State tax return.

D. The gross income claimed to be exempt, and with respect to each activity or transaction so claimed:

1. If the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:

a. The City privilege license number and State transaction privilege tax license number of the customer (or the equivalent city, if applicable, and state tax numbers of the city and state where the customer resides); and

b. The name, business address, and business activity of the customer; and

c. Evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by regulation.

2. If the transaction is claimed to be exempt for any other reason:

a. The name, business address, and business activity of the customer; and

b. Evidence which would establish the applicability of the exemption to a reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by regulation.

E. With respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.

F. With respect to special classes and activities, such other books, records, and documentation as the Tax Collector, by regulation, shall deem necessary for specific classes of taxpayer by reason of the specialized business activity of any such class.

G. In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0364 RECORDKEEPING: EXPENDITURES

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this chapter are:

A. The total price of all goods acquired for use or storage in the City.

B. The date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the City.

C. Documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.

D. The gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.

E. As applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:

1. All construction expenditures and all privilege and use taxes claimed paid, relating to owner-builders and speculative builders.

2. Disbursement of collected gratuities and related payroll information required of restaurants.

3. (Reserved)

a. Reserved

b. Reserved

4. The validity of any claims of proof of exemption.

5. A claimed alternative prior value for reconstruction.

6. All claimed exemptions to the use tax imposed by Division 3-05-006.

7. Costs used to compute the "computed charge" claimed for retail service and repair.

8. Payments of tax to the Arizona Department of Transportation and computations therefor, when a motor-vehicle transporter claims such the exemption.

9. (Reserved)

F. Any additional documentation as the Tax Collector, by regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.

G. In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0366 RECORDKEEPING: OUT-OF-CITY AND OUT-OF-STATE SALES

A. Out-of-City Sales. Any person engaging or continuing in a business who claims out-of-City sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-City branches or locations.

B. Out-of-State Sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:

1. Documentation of location of the buyer at the time of order placement; and

2. Shipping, delivery, or freight documents showing where the buyer took delivery; and

3. Documentation of intended location of use or storage of the tangible personal property sold to such buyer. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0370 RECORDKEEPING: CLAIM OF EXCLUSION, EXEMPTION, DEDUCTION, OR CREDIT; DOCUMENTATION; LIABILITY

A. All deductions, exclusions, exemptions, and credits provided in this chapter are conditional upon adequate proof and documentation of such as may be required either by this chapter or regulation.

B. Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this chapter~~,~~ shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as if he is delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption it shall not also be collected from the vendor. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0372 PROOF OF EXEMPTION: SALE FOR RESALE; ~~SALE,~~ RENTAL, LEASE, OR LICENSE OF RENTAL EQUIPMENT

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a privilege license number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold, rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for

disallowance of any claimed deduction on returns filed for such transactions. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0380 INADEQUATE OR UNSUITABLE RECORDS

In the event the records provided by the taxpayer are considered by the Tax Collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this chapter, it is the responsibility of the taxpayer either:

A. To provide such other records required by this chapter or regulation; or

B. To correct or to reconstruct his records, to the satisfaction of the Tax Collector.

(Ord. 2015-05, Enacted, 05/19/2015)

Division 3-05-004

PRIVILEGE TAXES

SECTIONS:

3-05-004-0400 IMPOSITION OF PRIVILEGE TAXES; PRESUMPTION:

3-05-004-0405 ADVERTISING:.

3-05-004-0407 RESERVED

3-05-004-0410 AMUSEMENTS, EXHIBITIONS, AND SIMILAR ACTIVITIES:

3-05-004-0415 CONSTRUCTION CONTRACTING:; CONSTRUCTION CONTRACTORS:

3-05-004-0415.1 LIABILITY FOR MRRA AMOUNTS EQUAL TO RETAIL TRANSACTION PRIVILEGE TAX DUE

3-05-004-0416 CONSTRUCTION CONTRACTING:; SPECULATIVE BUILDERS:

3-05-004-0416.1 SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE

3-05-004-0416.2 RECONSTRUCTION CONTRACTING

3-05-004-0417 CONSTRUCTION CONTRACTING:; OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS:

3-05-004-0418 (RESERVED)

3-05-004-0420 FEED AT WHOLESALE:

3-05-004-0422 RESERVED

3-05-004-0425 JOB PRINTING (REG. 425.1):

3-05-004-0427 MANUFACTURED BUILDINGS:

3-05-004-0430 TIMBERING AND OTHER EXTRACTION:

3-05-004-0432 MINING:

3-05-004-0435 PUBLISHING AND PERIODICALS DISTRIBUTION (REG. 435.1):

3-05-004-0440 RESERVED:

3-05-004-0444 HOTELS:

3-05-004-0445 RENTAL, LEASING, AND LICENSING FOR USE OF REAL PROPERTY (REG. 445.1, REG. 445.3):

3-05-004-0446 RESERVED:

3-05-004-0447 RESERVED:

3-05-004-0450 RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY (REG 450.1, REG. 450.2, REG 450.3):

3-05-004-0452 RESERVED:

3-05-004-0455 RESTAURANTS AND BARS:

3-05-004-0460 RETAIL SALES:; MEASURE OF TAX;, BURDEN OF PROOF;, EXCLUSIONS:

3-05-004-0462 RETAIL SALES;; FOOD FOR HOME CONSUMPTION:

3-05-004-0465 RETAIL SALES:; EXEMPTIONS:

3-05-004-0470 TELECOMMUNICATION SERVICES (REG. 475.1):

3-05-004-0475 TRANSPORTING FOR HIRE (REG. 475.1):

3-05-004-0480 UTILITY SERVICES:

3-05-004-0485 WASTEWATER REMOVAL SERVICES

~~3-05-004-0490 RESERVED:~~

3-05-004-0400 IMPOSITION OF PRIVILEGE TAXES; PRESUMPTION:

A. There are hereby levied and imposed, subject to all other provisions of this chapter, the following privilege taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector:

1. A privilege tax upon persons on account of their business activities, to the extent provided elsewhere in this ~~Article~~DIVISION, to be measured by the gross income of persons, whether derived from residents of the City or not, or whether derived from within the City or from without.

~~2. A privilege tax upon certain persons for the privilege of occupancy of real property, in accordance with the provisions of Section 3-05-004-0413.~~

2. RESERVED.

3. RESERVED.

B. Taxes Imposed by this Chapter are in Addition to Others: Except as specifically designated elsewhere in this Chapter, each of the taxes imposed by this chapter shall be in addition to all other licenses, fees, and taxes levied by law, including other taxes imposed by this chapter.

C. Presumption: For the purpose of proper administration of this chapter and to prevent evasion of the taxes imposed by this chapter, it shall be presumed that all gross income is subject to the tax until the contrary is established by the taxpayer.

D. Limitation of Exemptions, Deductions, and Credits Allowed Against the Measure of Taxes Imposed by this Chapter: All exemptions, deductions, and credits set forth in this chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

3-05-004-0405 ADVERTISING~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising." All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "local advertising," except the following:

1. The advertising of a product or service which is sold or provided both within and without the State by more than one "commonly designated business entity" within the State, and in which the advertisement names either no "commonly designated business entity" within the State or more than one "commonly designated business entity". "Commonly designated business entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

2. The advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.

3. The advertising of a product which may only be purchased from an out-of-State supplier.

4. Political advertising for United States presidential and vice presidential candidates only.

5. Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.

6. Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

B. Reserved.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0407 RESERVED

3-05-004-0410 AMUSEMENTS, EXHIBITIONS, AND SIMILAR ACTIVITIES~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the city or takes place entirely within the city, which includes the following type or nature of businesses:

1. Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.

2. Reserved.

B. Deductions or Exemptions. The gross proceeds or sales or gross income derived from the following sources are exempt from the tax imposed by this section:

1. Reserved.

2. Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona State Fair.

3. Income received from a hotel business subject to tax under Section 3-05-005-0444, if all of the following apply:

a. The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.

b. The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.

c. The hotel business has provided an exemption certificate to the person engaging in business under this section.

4. Income that is specifically included as the gross income of a business activity upon which another section of this ~~article~~DIVISION imposed a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

5. Income from arranging transportation connected to amusement activity that is separately stated to the customer, not to exceed consideration paid to the transportation business.

6. RESERVED.

7. RESERVED.

8. RESERVED.

9. RESERVED.

C. The tax imposed by this section shall not include arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement themselves or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this subsection, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

(Ord. 1851, 01/03/1995; Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0415 CONSTRUCTION CONTRACTING:; CONSTRUCTION CONTRACTORS:

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from

the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.

1. However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.

2. Reserved.

3. Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 3-05-004-0427.

4. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

5. HANDYMAN EXCLUSION. THIS CLASSIFICATION DOES NOT INCLUDE GROSS INCOME FROM ANY WORK OR OPERATION PERFORMED BY A PERSON THAT IS NOT REQUIRED TO BE LICENSED BY THE REGISTRAR OF CONTRACTORS PURSUANT TO A.R.S. SECTION 32-1121.

B. Deductions and Exemptions.

1. Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this section.

2. All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).

3. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

a. Sections 3-05-004-0465(G) and (P);

b. Sections 3-05-006-0660(G) and (P);

shall be exempt or deductible, respectively, from the tax imposed by this section.

4. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(G) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this ~~subsection~~ PARAGRAPH does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this subsection, "permanent attachment" means at least one (1) of the following:

a. To be incorporated into real property.

b. To become so affixed to real property that it becomes part of the real property.

c. To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

5. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

6. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 3-05-004-0465(G) shall be exempt from the tax imposed under this section.

7. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or

improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

8. The gross proceeds of sales or gross income received from a post-construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this section.

9. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. Section 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

a. The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. Section 9-499.08(D).

b. All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

c. Any other information considered to be necessary.

10. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this ~~subsection~~ PARAGRAPH:

a. The attributable amount shall not exceed the value of the development fees actually imposed.

b. The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

c. "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, ~~or~~ A.R.S. SECTION 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

11. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.

12. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT WITH THE OWNER OF REAL PROPERTY OR IMPROVEMENTS TO REAL PROPERTY FOR THE MAINTENANCE, REPAIR, REPLACEMENT, OR ALTERATION OF EXISTING PROPERTY IS NOT SUBJECT TO TAX UNDER THIS SECTION IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES, EXCEPT AS SPECIFIED IN THIS PARAGRAPH. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A DE MINIMIS AMOUNT OF MODIFICATION ACTIVITY DOES NOT SUBJECT THE CONTRACT OR ANY PART OF THE CONTRACT TO TAX UNDER THIS SECTION. FOR PURPOSES OF THIS PARAGRAPH:

A. ANY TERM NOT DEFINED IN THIS PARAGRAPH THAT IS DEFINED IN A.R.S. SECTION 42-5075 HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 42-5075.

B. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 3-05-004-0415.1.

C. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT, WITH THE TAX

TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.

D. THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO A.R.S. TITLE 28, CHAPTER 19, 20, OR 22 OR A.R.S. TITLE 34, CHAPTER 2 OR 6, EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A TAX ON CONTRACTS THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE PROVISIONS, THE CITY OR TOWN SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE TAX. THIS SUBDIVISION DOES NOT APPLY TO CONTRACTS WITH:

I. COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, REGIONAL ATTRACTION DISTRICTS, OR REVITALIZATION DISTRICTS.

II. ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM I OF THIS SUBDIVISION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT, OR ALTERATION OF SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND.

13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT ENTERED INTO FOR THE CONSTRUCTION OF A MIXED WASTE PROCESSING FACILITY THAT IS LOCATED ON A MUNICIPAL SOLID WASTE LANDFILL AND THAT IS CONSTRUCTED FOR THE PURPOSE OF RECYCLING SOLID WASTE OR PRODUCING RENEWABLE ENERGY FROM LANDFILL WASTE. FOR THE PURPOSES OF THIS PARAGRAPH:

A. “MIXED WASTE PROCESSING FACILITY” MEANS A SOLID WASTE FACILITY THAT IS OWNED, OPERATED, OR USED FOR THE TREATMENT, PROCESSING, OR DISPOSAL

OF SOLID WASTE, RECYCLABLE SOLID WASTE, CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE, OR HOUSEHOLD HAZARDOUS WASTE. FOR THE PURPOSES OF THIS SUBDIVISION, "CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE," "HOUSEHOLD HAZARDOUS WASTE," AND "SOLID WASTE FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN A.R.S. SECTION 49-701, EXCEPT THAT SOLID WASTE FACILITY DOES INCLUDE A SITE THAT STORES, TREATS, OR PROCESSES PAPER, GLASS, WOOD, CARDBOARD, HOUSEHOLD TEXTILES, SCRAP METAL, PLASTIC, VEGETATIVE WASTE, ALUMINUM, STEEL, OR OTHER RECYCLABLE MATERIAL.

B. "MUNICIPAL SOLID WASTE LANDFILL" HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 49-701.

C. "RECYCLING" MEANS COLLECTING, SEPARATING, CLEANSING, TREATING, AND RECONSTITUTING RECYCLABLE SOLID WASTE THAT WOULD OTHERWISE BECOME SOLID WASTE, BUT DOES NOT INCLUDE INCINERATION OR OTHER SIMILAR PROCESSES.

D. "RENEWABLE ENERGY" HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 41-1511.

C. "Subcontractor" means a construction contractor performing work for either:

1. A construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City privilege license number.

2. An owner-builder who has provided the subcontractor with a written declaration that:

a. The owner-builder is improving the property for sale; and

b. The owner-builder is liable for the tax for such construction contracting activity; and

c. The owner-builder has provided the contractor his City privilege license number.

3. A person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and setup; and provided the subcontractor his City privilege license number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

(Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2014-16, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0415.1 LIABILITY FOR MRRA AMOUNTS EQUAL TO RETAIL TRANSACTION PRIVILEGE TAX DUE

A. A PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER SECTION 3-05-004-0415 OR A SUBCONTRACTOR WORKING UNDER THE CONTROL OF SUCH A PRIME CONTRACTOR, THAT PURCHASES TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER SECTION 3-05-004-0465(K) OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 3-05-006-0660(K) AT THE TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO A PROJECT DESCRIBED IN SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, IS LIABLE FOR AN AMOUNT EQUAL TO ANY TAX THAT A SELLER WOULD HAVE BEEN REQUIRED TO PAY UNDER SECTION 3-05-004-0460 ANDA.R.S. TITLE 42, CHAPTER 5, AS FOLLOWS:

1. THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON THE LOCATION OF THE PROJECT AND THE TAXES IMPOSED UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5.

2. ALL DEDUCTIONS, EXEMPTIONS, AND EXCLUSIONS FOR THE COST OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 3-05-004-0415 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO THE PROJECT.

3. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 3-05-004-0415, WITHOUT REGARD TO SECTION 3-05-004-0415(B)(12).

4. THE AMOUNT OF LIABILITY SHALL BE REPORTED WITHIN THE REPORTING PERIOD THAT INCLUDES THE MONTH IN WHICH THE PERSON INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO THE PROJECT.

5. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS SUBSECTION. THE DEPARTMENT OF REVENUE SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE CITY MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

B. A PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER SECTION 3-05-004-0465(K) OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 3-05-006-0660(K) AT THE TIME OF PURCHASE, WHOSE TRANSACTION PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT SUBSEQUENTLY USES, CONSUMES, SELLS, OR DISCARDS THE TANGIBLE PERSONAL PROPERTY IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION:

1. IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON THE PERSON'S PURCHASE PRICE OF THE TANGIBLE PERSONAL PROPERTY, THE LOCATION OF THE PROJECT, USE, OR CONSUMPTION AND THE TAXES IMPOSED UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5.

2. IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT IS NOT SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED, THE AMOUNT SHALL BE CALCULATED AND REPORTED BASED ON THE PAYMENT RECEIVED BY THE PERSON, THE LOCATION OF THE PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE, AND THE TAXES IMPOSED UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5.

3. THE PERSON IS NOT LIABLE UNDER THIS SUBSECTION FOR ANY AMOUNT IF THE PERSON DISCARDS THE TANGIBLE PERSONAL PROPERTY AND DOES NOT RECEIVE PAYMENT OF ANY KIND.

4. THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE PERSON USES THE TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE UNDER THIS SUBSECTION AT ANY TIME THAT THE PERSON STORES THE TANGIBLE PERSONAL PROPERTY WITHOUT USING IT IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

5. ALL DEDUCTIONS, EXEMPTIONS, AND EXCLUSIONS FOR THE COST OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 3-05-004-0415 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O.

6. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 3-05-004-0415 AND A.R.S. SECTION 42-5075, WITHOUT REGARD TO SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O.

7. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS SUBSECTION FOR TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

C. A PERSON THAT FAILS TO REPORT OR PAY ANY AMOUNT DUE UNDER SUBSECTION A OR B OF THIS SECTION IS LIABLE FOR INTEREST IN A MANNER CONSISTENT WITH A.R.S. SECTION 42-1123 AND PENALTIES IN A MANNER CONSISTENT WITH A.R.S. SECTION 42-1125.

D. IF A PERSON HAS PAID AN AMOUNT DESCRIBED IN THIS SECTION ON TANGIBLE PERSONAL PROPERTY THAT THE PERSON REASONABLY BELIEVED TO BE DESCRIBED UNDER SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, AND A FINAL DETERMINATION IS MADE THAT SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, DOES NOT APPLY, THE PERSON IS ENTITLED TO AN OFFSET FOR THE AMOUNT PAID UNDER THIS SECTION AGAINST THE AMOUNT OF TAX LIABILITY ASSESSED UNDER THIS CHAPTER.

3-05-004-0416 CONSTRUCTION CONTRACTING:; SPECULATIVE BUILDERS:

A. The tax shall be equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.

1. The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.

2. "Improved real property" means any real property:

   a. Upon which a structure has been ~~constructed~~ SUBSTANTIALLY COMPLETED; or

   b. Where improvements have been made to land containing no structure (such as paving or landscaping); or

   c. Which has been reconstructed as provided by ~~regulation~~ SECTION 3-05-004-0416.2; or

   d. Where water, power, and streets have been constructed to the property line.

3. "Sale of improved real property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

4. "Partially improved residential real property," as used in this section, means any improved real property, as defined in subsection ~~(A)(2) of this section~~ A.2. ABOVE, being developed for sale ~~to individual homeowners~~, where the ~~construction of the residence upon~~ IMPROVEMENT TO such property is not substantially complete at the time of the sale.

B. Exclusions:

1. In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by ~~regulation~~ SECTION 3-05-004-0416.2.

2. Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this section.

3. Reserved.

4. A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in ~~subsection (A)(4) of this section~~ A.4. ABOVE to another speculative builder only if all of the following conditions are satisfied:

a. The speculative builder purchasing the partially improved residential real property has a valid ~~city~~ MUNICIPAL privilege TAX license for construction contracting as a speculative builder; and

b. At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the City at the time of sale of the partially improved residential real property; and

c. The seller also:

(1) Maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

(2) Retains a copy of the written declaration provided by the buyer for the transaction; and

(3) Is properly licensed with the City as a speculative builder ~~and provides the City with a written declaration attached to the City privilege tax return where he claims the exclusion~~.

5. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

C. Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to EXEMPTIONS, deductions and tax credits:

1. Exemptions.

a. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(1) Sections 3-05-004-0465(G) and (P);

(2) Sections 3-05-006-0660(G) and (P);

shall be exempt or deductible, respectively, from the tax imposed by this section.

b. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

c. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 3-05-004-0465(G) shall be exempt from the tax imposed under this section.

d. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or

agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

e. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer ~~shall be exempt from the tax imposed under this section~~. For the purposes of this ~~subsection~~ PARAGRAPH:

(1) The attributable amount shall not exceed the value of the development fees actually imposed.

(2) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(3) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, ~~or~~ A.R.S. SECTION 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

F. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM THE VALUE OF EXISTING TENANT LEASES IN PLACE AT THE TIME OF THE SALE SHALL BE EXEMPT FROM TAX IMPOSED UNDER THIS SECTION. THE VALUE OF THE IN-PLACE LEASES SHALL BE DETERMINED AS OF THE CLOSE OF ESCROW OR TRANSFER OF TITLE AS FOLLOWS:

(1) FOR A RESIDENTIAL LEASE THE VALUE OF THE IN-PLACE LEASE IS THE TOTAL VALUE OF ALL EXPECTED LEASE RECEIPTS THROUGH THE END OF THE CURRENT LEASE TERM MULTIPLIED BY A FACTOR OF 1.5. EXPECTED LEASE RECEIPTS INCLUDES NON-REFUNDABLE DEPOSITS AND EXCLUDES ALL REFUNDABLE DEPOSITS REGARDLESS OF WHETHER THE REFUNDABLE DEPOSIT MAY BE FORFEITED.

(2) FOR A COMMERCIAL LEASE THE VALUE OF THE IN-PLACE LEASE IS THE PRESENT VALUE OF THE EXPECTED LEASE RECEIPTS THROUGH THE END OF THE CURRENT LEASE TERM OR FIRST OPTION OF EITHER PARTY TO TERMINATE THE LEASE, WHICHEVER IS LESS. THE DISCOUNT RATE USED TO CALCULATE THE PRESENT VALUE SHALL BE THE 100% MID-TERM APPLICABLE FEDERAL RATE PUBLISHED BY THE INTERNAL REVENUE SERVICE ASSOCIATED WITH THE PAYMENT TERMS OF THE LEASE RELATED TO THE MONTH PRECEDING THE CLOSE OF ESCROW PLUS THREE (3) PERCENTAGE POINTS.

(3) A TRANSACTION, WHETHER CHARACTERIZED AS A LEASE OR OTHERWISE, WHICH IN SUBSTANCE IS A TRANSFER OF TITLE OF OR EQUITABLE OWNERSHIP IN IMPROVED REAL PROPERTY, INCLUDING ANY LEASE OF THE PROPERTY FOR A TERM OF THIRTY (30) YEARS OR MORE (WITH ALL OPTIONS FOR RENEWAL BEING INCLUDED AS A PART OF THE TERM) IS DEEMED TO BE A SALE OF IMPROVED REAL PROPERTY PURSUANT TO SUBSECTION A.3. OF THIS SECTION AND IS NOT CONSIDERED AN IN-PLACE LEASE.

2. "Deductions."

A. ALL STATE AND COUNTY TAXES ASSOCIATED WITH THE PROJECT AND REPORTED AND PAID TO THE DEPARTMENT OF REVENUE BY A CONTRACTOR CONSTRUCTING THE IMPROVEMENTS ON THE PROPERTY SHALL BE DEDUCTED FROM THE SELLING PRICE.

~~a~~B. All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

~~b~~C. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair, or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(G), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this ~~subsection~~ PARAGRAPH does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this ~~subsection~~ PARAGRAPH, "permanent attachment" means at least one (1) of the following:

(1) To be incorporated into real property.

(2) To become so affixed to real property that it becomes part of the real property.

(3) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

~~c~~D. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the city, as applicable, for examination.

3. Tax Credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the Tax Collector:

a. A tax credit equal to the amount of City privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the

vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

b. A tax credit equal to the amount of privilege taxes paid to this city, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

C. A TAX CREDIT EQUAL TO THE AMOUNT OF PRIVILEGE TAXES PAID TO THIS CITY BY ANY SPECULATIVE BUILDER ON THE GROSS INCOME DERIVED BY SAID PERSON FROM THE SALE OF IMPROVED REAL PROPERTY PURSUANT TO SUBSECTIONS A.2.B. OR A.2.D. OF THIS SECTION AGAINST THE GROSS INCOME OF ANY SPECULATIVE BUILDER FROM THE SALE OF IMPROVED REAL PROPERTY PURSUANT TO SUBSECTION A.2.A.

~~c~~D. No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

3-05-004-0416.1. SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE

A. A SALE OF A HOME, REGARDLESS OF THE STAGE OF COMPLETION OF SUCH HOME, SHALL BE CONSIDERED A "HOMEOWNER'S BONA FIDE NON-BUSINESS SALE" AND NOT SUBJECT TO THE TAX ON SPECULATIVE BUILDERS IF:

1. THE PROPERTY WAS ACTUALLY USED AS THE PRINCIPAL PLACE OF FAMILY RESIDENCE OR VACATION RESIDENCE BY THE IMMEDIATE FAMILY OF THE SELLER FOR THE SIX (6) MONTHS NEXT PRIOR TO THE OFFER FOR SALE; AND

2. THE SELLER HAS NOT SOLD MORE THAN TWO (2) SUCH RESIDENCES (OR, IF THE RESIDENCE IS A VACATION RESIDENCE, TWO (2) SUCH VACATION RESIDENCES) WITHIN THE THIRTY-SIX (36) MONTHS IMMEDIATELY PRIOR TO THE OFFER FOR SALE; AND

3. THE SELLER HAS NOT LICENSED, LEASED, OR RENTED THE SOLD PREMISES FOR ANY PERIOD WITHIN TWENTY-FOUR (24) MONTHS PRIOR TO THE OFFER FOR SALE.

B. IN THE EVENT THAT A HOMEOWNER OF A FAMILY RESIDENCE CONTRACTS WITH A LICENSED CONSTRUCTION CONTRACTOR FOR IMPROVEMENTS TO A RESIDENCE, THE CONSTRUCTION

CONTRACTING ON A FAMILY RESIDENCE SHALL BE PRESUMED TO BE FOR AN OWNER'S BONA FIDE NON-BUSINESS PURPOSE AND ALL CONSTRUCTION CONTRACTORS SHALL BE REQUIRED TO REPORT AND PAY THE TAX IMPOSED ON ALL SUCH IMPROVEMENTS.

C. PURCHASES BY A HOMEOWNER OF TANGIBLE PERSONAL PROPERTY FOR INCLUSION IN ANY CONSTRUCTION, ALTERATION, OR REPAIR OF HIS RESIDENCE SHALL BE SUBJECT TO TAX AS RETAIL SALES TO THE ULTIMATE CONSUMER.

D. "OWNER," "HOMEOWNER," AND "SELLER" AS USED IN THIS SECTION SHALL ONLY MEAN AN INDIVIDUAL OR QUALIFIED TRUST, AND NO OTHER ENTITY, ASSOCIATION, OR REPRESENTATIVE SHALL QUALIFY; EXCEPT THAT AN ADMINISTRATOR, EXECUTOR, PERSONAL REPRESENTATIVE, OR GUARDIAN IN GUARDIANSHIP OR PROBATE PROCEEDINGS, FOR THE ESTATE OF A DECEASED OR INCOMPETENT PERSON OR A MINOR, MAY CLAIM "HOMEOWNER" STATUS FOR SUCH PERSON IF SUCH PERSON WOULD HAVE OTHERWISE QUALIFIED WITH RESPECT TO THE SPECIFIC PROPERTY INVOLVED.

E. “QUALIFIED TRUST” AS USED IN THIS SECTION MEANS ANY LEGAL TRUST WHERE A BENEFICIARY OF THE TRUST IS AN INDIVIDUAL THAT HAS BEEN THE RESIDENT OF THE PROPERTY AND THAT INDIVIDUAL MEETS THE CRITERIA LISTED IN SUBSECTION A OF THIS SECTION.

3-05-004-0416.2. RECONSTRUCTION CONTRACTING

A. "RECONSTRUCTION (OF REAL PROPERTY)" SHALL MEAN THE SUBDIVIDING OF REAL PROPERTY AND, IN ADDITION, ALL CONSTRUCTION CONTRACTING ACTIVITIES PERFORMED UPON SAID REAL PROPERTY; PROVIDED, HOWEVER, THAT EACH OF THE FOLLOWING CONDITIONS ARE MET:

1. A STRUCTURE EXISTED ON SAID REAL PROPERTY PRIOR TO THE RECONSTRUCTION ACTIVITY; AND

2. THE "PRIOR VALUE" OF SAID STRUCTURE EXCEEDS FIFTEEN PERCENT (15%) OF THE "PRIOR VALUE" OF THE INTEGRATED PROPERTY (LAND, IMPROVEMENTS, AND STRUCTURE); AND

3. THE TOTAL COST OF ALL CONSTRUCTION CONTRACTING ACTIVITIES PERFORMED ON SAID REAL PROPERTY IN THE TWENTY-FOUR (24) MONTH PERIOD PRIOR TO THE SALE OF

ANY PART OF THE REAL PROPERTY EXCEEDS FIFTEEN PERCENT (15%) OF THE "PRIOR VALUE" OF THE REAL PROPERTY; AND

4. THE STRUCTURE WHICH EXISTED ON THE REAL PROPERTY PRIOR TO THE RECONSTRUCTION ACTIVITY STILL EXISTS IN SOME FORM UPON THE PROPERTY, AND IS INCLUDED, IN WHOLE OR IN PART, IN THE PROPERTY SOLD.

B. EXCEPT AS PROVIDED IN SUBSECTION C BELOW, "PRIOR VALUE" MEANS THE VALUE OF THE TOTAL INTEGRATED PROPERTY, WITH IMPROVEMENTS, AS EXISTING IMMEDIATELY PRIOR TO ANY RECONSTRUCTION ACTIVITY. WHERE, ACCORDING TO TITLE 42 OF THE ARIZONA REVISED STATUTES, A PROPERTY'S FULL CASH VALUE FOR SECONDARY TAX PURPOSES IS INTENDED TO REPRESENT THE PROPERTY'S FAIR MARKET VALUE, "PRIOR VALUE" SHALL BE THE PROPERTY'S FULL CASH VALUE FOR SECONDARY PROPERTY TAX PURPOSES AS DETERMINED BY THE COUNTY ASSESSOR IN THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE RECONSTRUCTION IMPROVEMENT(S) ARE OR COULD HAVE BEEN INCLUDED IN THE COUNTY ASSESSOR'S VALUATION. IF THE COUNTY ASSESSOR'S VALUATION IS CONTESTED OR APPEALED, THE FINAL DETERMINATION AT EITHER THE ADMINISTRATIVE OR JUDICIAL LEVEL SHALL APPLY. WHERE, ACCORDING TO TITLE 42 OF THE ARIZONA REVISED STATUTES, A PROPERTY'S FULL CASH VALUE FOR SECONDARY PROPERTY TAX PURPOSES IS NOT INTENDED TO REPRESENT THE PROPERTY'S FAIR MARKET VALUE, "PRIOR VALUE" SHALL BE THE PROPERTY'S FAIR MARKET VALUE PRIOR TO THE RECONSTRUCTION IMPROVEMENT(S).

C. "ALTERNATIVE PRIOR VALUE" SHALL MEAN THAT AS AN ALTERNATIVE TO THE "PRIOR VALUE" DEFINED ABOVE, THE TAXPAYER MAY USE HIS ACTUAL COST OF THE RECONSTRUCTED PROPERTY PRIOR TO RECONSTRUCTION, PROVIDED THAT EVIDENCE OF SUCH COST IS PRESENTED TO THE TAX COLLECTOR AND IS DETERMINED BY THE TAX COLLECTOR, IN HIS SOLE DISCRETION, TO BE SATISFACTORY. SUCH EVIDENCE SHALL CONSIST, AT A MINIMUM, OF PROOF OF THE ACTUAL, ARMS-LENGTH ACQUISITION PRICE, ACCOMPANIED BY A FULL APPRAISAL OF ALL PROPERTY INVOLVED WHICH APPRAISAL SHALL HAVE BEEN PERFORMED BY A REAL ESTATE BROKER OR MAI APPRAISER SPECIFICALLY FOR THE PURPOSE OF ASSISTING IN THE ACQUISITION AND FURTHER SHALL HAVE BEEN PERFORMED ON BEHALF OF THE SELLER OR A LENDING INSTITUTION WHICH HAS LENT AT LEAST SIXTY-FIVE PERCENT (65%) OF THE ACQUISITION PRICE. (ONLY LONG-TERM LENDING - NOT INTERIM OR CONSTRUCTION FINANCING WILL BE CONSIDERED.) THIS ALTERNATIVE VALUE SHALL

BE USED ONLY IF THE PROPERTY WAS ACQUIRED BY THE RECONSTRUCTION TAXPAYER NOT MORE THAN THIRTY-SIX (36) MONTHS PRIOR TO A "SALE" AS DEFINED BELOW.

D. A "SALE" FOR THE PURPOSE OF DETERMINING "ALTERNATIVE PRIOR VALUE" OR "RECONSTRUCTION" ONLY SHALL BE DEEMED TO HAVE OCCURRED AS OF THE DATE OF THE EXECUTION OF A CONTRACT OF SALE OR A DEED (JOINT TENANCY OR WARRANTY) WHICHEVER IS EARLIER, TO A PURCHASER OR GRANTEE OF ANY SINGLE RESIDENTIAL OR OTHER OCCUPANCY UNIT. IN ADDITION TO THE FOREGOING, A LEASE WITH OPTION TO PURCHASE A SINGLE RESIDENTIAL UNIT SHALL BE CONSIDERED A "SALE" AT THE DATE OF EXECUTION OF SUCH LEASE IF SAID OPTION IS EXERCISABLE BY THE LESSEE IN NOT LATER THAN NINE (9) MONTHS. FURTHER IN THE CASE OF COOPERATIVE APARTMENTS, THE SALE DATE SHALL BE THE DATE OF EXECUTION OF THE CONTRACT SELLING (SUBJECT OR NOT TO ENCUMBRANCES, LIENS, OR SECURITY INTERESTS) OF A SHARE, OR A SUFFICIENT NUMBER OF SHARES WHICH ENTITLE THE PURCHASER TO THE OCCUPANCY OF A RESIDENTIAL UNIT. IN ALL CASES A PERSON SHALL INCLUDE A HUSBAND AND WIFE AS A COMMUNITY, OR ANY CO-OCCUPANTS OF A SINGLE UNIT AS JOINT TENANTS.

(Ord. 1669, 07/17/1990; Ord. 2000-14, Amended, 06/06/2000; Ord. 2008, Amended, 11/02/1999; Ord. 2004-25, Amended, 01/10/2005; Ord. 2006-16, Amended 06/06/2006; Ord. 2007-28, Amended, 05/01/2007; Ord. No. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2014-16, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0417 CONSTRUCTION CONTRACTING:~~;~~ OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS~~:~~

A. At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of:

1. The gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Section 3-05-004-0415(C)(2); and

2. The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

B. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

C. The tax liability of this section is subject to the following provisions, relating to exemptions, deductions and tax credits:

1. Exemptions.

a. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(1) Sections 3-05-004-0465(G) and (P);

(2) Sections 3-05-006-0660(G) and (P);

shall be exempt or deductible, respectively, from the tax imposed by this section.

b. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

c. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 3-05-004-0465(G) shall be exempt from the tax imposed under this section.

d. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent,

monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

e. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this ~~subsection~~ PARAGRAPH:

(1) The attributable amount shall not exceed the value of the development fees actually imposed.

(2) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(3) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, ~~or~~ A.R.S. SECTION 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

2. Deductions.

a. All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

b. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair, or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(G), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital

equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this ~~subsection~~ PARAGRAPH does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this ~~subsection~~ PARAGRAPH, "permanent attachment" means at least one of the following:

(1) To be incorporated into real property.

(2) To become so affixed to real property that it becomes part of the real property.

(3) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

c. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.

3. Tax Credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the Tax Collector:

a. A tax credit equal to the amount of City privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

b. A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

c. No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

D. The limitation period for the assessment of taxes imposed by this section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25TH) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 3-05-005-0540, will be based on reportable date.

E. Reserved.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2008, Amended, 11/02/1999; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2014-16, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0418 (RESERVED)

3-05-004-0420 FEED AT WHOLESALE~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of the sale of feed, salt, vitamins, and other additives to feed, to persons engaged in the raising or feeding of livestock or poultry purchased or raised for slaughter, with no deduction for the income derived from the "resale" of such feed.

B. The tax imposed by this section shall not apply to:

1. Out-of-City sales.

2. Out-of-State sales.

(Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0422 RESERVED.

3-05-004-0425 JOB PRINTING (REG. 425.1)~~:~~

SEE ALSO REGULATION 3-5-425.1.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

B. The tax imposed by this section shall not apply to:

1. Job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.

2. Out-of-City sales.

3. Out-of-State sales.

4. Job printing of newspapers, magazines, or other periodicals or publications for a person who is subject to the tax imposed by Section 3-05-004-0435(A) or an equivalent excise tax; provided further that said person is properly licensed by the taxing jurisdiction at the location of publication.

5. Sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

6. (Reserved)

7. Sales of postage and freight except that the amount deducted shall not exceed the actual postage and freight expense that is paid to the United States Postal Service or a commercial delivery service and that is separately itemized by the taxpayer on the customer's invoice and in the taxpayer's records.

(Ord. 1851, 01/03/1995; Ord. 1979, Amended, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0427 MANUFACTURED BUILDINGS~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income, including site preparation, moving to the site, and/or setup, upon every person engaging or continuing in the

business activity of selling manufactured buildings within the City. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.

B. The sale of used manufactured buildings are not taxable.

C. The sales price of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section. ~~The sale~~ SALES of such items are subject to the tax under Section 3-05-004-0460.

D. Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

(Ord. 1851, 01/03/95; Ord. 2000-14, Amended, 06/06/2000; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0430 TIMBERING AND OTHER EXTRACTION~~:~~

A. The tax rate shall be an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the following businesses:

1. Felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.

2. Extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.

B. The rate specified in subsection ~~(A) of this section~~ A ABOVE shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.

C. If any person engaging in any business classified in this section ships or transports product, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out of State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this section.

D. RESERVED.

(Ord. 1851, 01/03/1995; Ord. 2000-14, Amended, 06/06/2000; Ord. 2013-02, Amended, 04/02/2013; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0432 MINING~~:~~

A. The tax rate shall be at an amount equal to one tenth of one percent (0.1%), not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

B. The rate specified in subsection ~~(A) of this section~~ A ABOVE shall be applied to the value of the entire product mined, smelted or produced for sale, profit, or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.

C. If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of THE State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this section.

(Ord. 1851, 01/03/1995)

3-05-004-0435 PUBLISHING AND PERIODICALS DISTRIBUTION~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business activity of:

1. Publication of newspapers, magazines, or other periodicals when published within the City, measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 3-05-004-0405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.

2. Distribution or delivery within the City of newspapers, magazines, or other periodicals not published within the City, measured by the gross income derived from subscriptions.

B. "Location of publication" is determined by:

1. Location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

2. Location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

C. "Subscription income" shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the State by such carriers or vendors, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the privilege tax on such resale.

D. "Circulation," for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.

E. Allocation of taxes between cities and towns. In cases where publication or distribution occurs in more than one city or town, the measurement of gross income subject to tax by the City shall include:

1. That portion of the gross income from publication which reflects the ratio of circulation within this City to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus

2. Only when publication occurs within the City, that portion of the remaining gross income from publication which reflects the ratio of circulation within this City to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.

F. The tax imposed by this section shall not apply to sales of newspapers, magazines or other periodicals to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(Ord. 1593, 12/06/1988; Ord. 1979, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0440 RESERVED~~:~~

3-05-004-0444 HOTELS~~:~~

The tax rate shall be at an amount equal to FOUR AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (4.486%) ~~four and two hundred eighty-one thousandths percent (4.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or space furnished to any:

A. Transient.

B. Exclusions. The tax imposed by this section shall not include:

1. Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this state or any other state in a privately operated prison, jail or detention facility.

2. Gross proceeds of sales or gross income that is properly included in another business activity under this ~~article~~ DIVISION and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

3. Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this ~~article~~ DIVISION.

4. Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under Section 3-05-004-0410 or 3-05-004-0475 due to an exclusion, exemption or deduction.

5. Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under Section 3-05-004-0445 or 3-05-004-0450 as rental, leasing or licensing for use of real or tangible personal property.

6. Income from providing telephone, fax or Internet services to customers at an additional charge, that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such gross proceeds of sales or gross income may be subject to tax under Section 3-05-004-0470 as telecommunication services.

(Ord. 1669, 07/17/1990; Ord. 1979, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-15, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0445 RENTAL, LEASING, AND LICENSING FOR USE OF REAL PROPERTY~~:~~ (REG. 445.1, REG. 445.3)

SEE ALSO REGULATION 3-5-445.1 AND REGULATION 3-5-445.3.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City for a consideration including any improvements, rights, or interest in such property; provided further~~,~~ that:

1. Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.

2. Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.

3. However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 3-05-004-0470.

B. If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

C. Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

D. Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services OR THAT IS A CABLE OPERATOR, OR CHARGES FOR JOINT POLE USAGE to a~~nother~~ person engaged in the business of providing or furnishing utility or telecommunication services OR THAT IS A CABLE OPERATOR are exempt from the tax imposed by this section. "CABLE OPERATOR" HAS THE SAME MEANING AS PRESCRIBED BY A.R.S. SECTION 9-505.

E. Exempt from the tax imposed by this section is gross income derived from the rental, leasing, or licensing for use of real property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

F. (Reserved)

G. (Reserved)

H. The tax prescribed by this section shall not include gross income from the rental, leasing, or licensing of lodging or lodging space to an individual who resides therein.

I. (Reserved)

J. Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 3-05-004-0444 OF THIS CODE.

K. (Reserved)

L. (Reserved)

M. (Reserved)

N. Notwithstanding the provisions of Section 3-05-002-0200(B), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this section.

O. Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this section.

P. Charges by a hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or any other real property during the course of their treatment by such facilities are exempt.

Q. Charges to patients receiving "personal care" or "directed care" by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4, Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.

R. ~~(Reserved)~~ INCOME RECEIVED FROM THE RENTAL OF ANY "LOW-INCOME UNIT" AS ESTABLISHED UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, INCLUDING THE LOW-INCOME HOUSING CREDIT PROVIDED BY IRC SECTION 42, TO THE EXTENT THAT THE COLLECTION OF TAX ON RENTAL INCOME CAUSES THE "GROSS RENT" DEFINED BY IRC SECTION 42 TO EXCEED THE INCOME LIMITATION FOR THE LOW-INCOME UNIT IS EXEMPT. THIS EXEMPTION ALSO APPLIES TO INCOME RECEIVED FROM THE RENTAL OF INDIVIDUAL RENTAL UNITS SUBJECT TO STATUTORY OR REGULATORY "LOW-INCOME UNIT" RENT RESTRICTIONS SIMILAR TO IRC SECTION 42 TO THE EXTENT THAT THE COLLECTION OF TAX FROM THE TENANT CAUSES THE RENTAL RECEIPTS TO EXCEED A RENT RESTRICTION FOR THE LOW-INCOME UNIT. THIS SUBSECTION ALSO APPLIES TO RENT RECEIVED BY A PERSON OTHER THAN THE OWNER OR LESSOR OF THE LOW-INCOME UNIT, INCLUDING A BROKER. THIS SUBSECTION DOES NOT APPLY UNLESS A TAXPAYER MAINTAINS THE DOCUMENTATION TO SUPPORT THE QUALIFICATION OF A UNIT AS A LOW-INCOME UNIT, THE "GROSS RENT" LIMITATION FOR THE UNIT, AND THE RENT RECEIVED FROM THAT UNIT.

S. The gross proceeds of a commercial lease of real property between affiliated companies, businesses, persons or reciprocal insurers are exempt. For the purposes of this ~~subsection~~ PARAGRAPH:

1. "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, an affiliated entity holds a controlling interest in both the lessor and the lessee or an unrelated person holds a controlling interest in both the lessor and lessee.

2. "Controlling interest" means direct or indirect ownership of at least eighty percent (80%) of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

3. "Reciprocal insurer" has the same meaning as prescribed in A.R.S. Section 20-762.

(Ord. 1851, 01/03/1995; Ord. 1979, 10/06/1998; Ord. 1989, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2004-25, Amended, 01/10/2005; Ord. 2006-16, Amended, 06/06/2006; Ord. 2011-21, Amended, 10/18/2011; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0446 RESERVED~~:~~

3-05-004-0447 RESERVED~~:~~

3-05-004-0450 RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY~~:~~ (REG. 450.1, REG. 450.2, REG 450.3)

SEE ALSO REGULATION 3-5-450.1, REGULATION 3-5-450.2, AND REGULATION 3-5-450.3.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the City as provided by regulation.

B. Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a privilege tax or an equivalent excise tax upon the transaction.

C. Gross income derived from the following transactions shall be exempt from privilege taxes imposed by this section:

1. Rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.

2. Rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.

3. Rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 3-05-004-0410, or to a radio station, television station, or subscription television system.

4. Rental, leasing, or licensing for use of the following:

a. Prosthetics.

b. Income-producing capital equipment.

c. Mining and metallurgical supplies.

These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.

5. Rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

6. Separately billed charges for delivery, installation, repair, and/or maintenance as provided by regulation.

7. Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services OR THAT IS A CABLE OPERATOR, OR CHARGES FOR JOINT POLE USAGE to a~~nother~~ person engaged in the business of providing or furnishing utility or

telecommunication services OR THAT IS A CABLE OPERATOR. "CABLE OPERATOR" HAS THE SAME MEANING AS PRESCRIBED BY A.R.S. SECTION 9-505.

8. The gross income from coin-operated washing, drying, and dry cleaning machines, or from coin-operated car washing machines. This exemption shall not apply to suppliers or distributors renting, leasing, or licensing for use of such equipment to persons engaged in the operation of coin-operated washing, drying, dry cleaning, or car washing establishments.

9. Rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by regulation, if such rental, leasing, or licensing had been a sale.

10. Rental, leasing and licensing for use of an alternative fuel vehicle if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

11. Rental, leasing, and licensing for use of solar energy devices, for taxable periods beginning from and after July 1, 2008. The lessor shall register with the Department of Revenue as a solar energy retailer. By registering, the lessor acknowledges that it will make its books and records relating to leases of solar energy devices available to the Department of Revenue and City, as applicable, for examination.

12. Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by A.R.S. Section 28-1461. For the purposes of this ~~subsection~~ PARAGRAPH, "certified ignition interlock device" has the same meaning prescribed in A.R.S. Section 28-1301.

(Ord. 1851, 01/03/1995; Ord. 1979, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended 06/16/2009; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0452 RESERVED~~:~~

3-05-004-0455 RESTAURANTS AND BARS~~:~~

A. The tax rate shall be at an amount equal to FOUR AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (4.486%) ~~four and two hundred eighty-one thousandths percent (4.281%)~~ of the gross income from

the business activity upon every person engaging or continuing in the business of preparing or serving food or beverages in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.

B. Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises shall also be allowed to exclude separately charged delivery, setup, and cleanup charges~~,~~; provided~~,~~ that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this section.

C. The tax imposed by this section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

D. The tax imposed by this section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. Section 42-5061~~(a)(49)~~, that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

E. The tax imposed by this section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of A.R.S. Title 15 to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

F. THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES OF LOW OR REDUCED COST ARTICLES OF FOOD OR DRINK TO ELIGIBLE ELDERLY OR HOMELESS PERSONS OR PERSONS WITH A DISABILITY BY A BUSINESS SUBJECT TO TAX UNDER A.R.S. SECTION 42-5074 THAT CONTRACTS WITH THE DEPARTMENT OF ECONOMIC SECURITY AND THAT IS APPROVED BY THE FOOD AND NUTRITION SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE PURSUANT TOTHE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND NUTRITION ACT OF 2008 (P.L. 110-246; 122 STAT. 1651; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036A), IF THE PURCHASES ARE MADE WITH THE BENEFITS ISSUED PURSUANT TO THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

G. THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(C)(3), 501(C)(4), OR 501(C)(6) OF THE INTERNAL REVENUE CODE IF THE ORGANIZATION IS ASSOCIATED WITH A MAJOR LEAGUE BASEBALL TEAM OR A NATIONAL TOURING PROFESSIONAL GOLFING ASSOCIATION AND NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL. THIS PARAGRAPH DOES NOT APPLY TO AN ORGANIZATION THAT IS OWNED, MANAGED, OR CONTROLLED, IN WHOLE OR IN PART, BY A MAJOR LEAGUE BASEBALL TEAM, OR ITS OWNERS, OFFICERS, EMPLOYEES, OR AGENTS, OR BY A MAJOR LEAGUE BASEBALL ASSOCIATION OR PROFESSIONAL GOLFING ASSOCIATION, OR ITS OWNERS, OFFICERS, EMPLOYEES, OR AGENTS, UNLESS THE ORGANIZATION CONDUCTED OR OPERATED EXHIBITION EVENTS IN THIS STATE BEFORE JANUARY 1, 2018, THAT WERE EXEMPT FROM TAXATION UNDERA.R.S. SECTION 42-5073.

H. IF A CITY, TOWN, OR OTHER TAXING JURISDICTION IMPOSES A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE, OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE SALE OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR CONSUMPTION ON THE PREMISES, THE TAX MUST BE APPLIED UNIFORMLY WITH RESPECT TO ALL FOOD ITEMS, AND AN ADDITIONAL TAX OR FEE DIFFERENTIAL MAY NOT BE ASSESSED OR APPLIED WITH RESPECT TO ANY SPECIFIC FOOD ITEM.

~~F~~I. For the purposes of this section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(Ord. 1593, Amended, 11/15/1988; Ord. 1979, Amended, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-15, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0460 RETAIL SALES~~:~~; MEASURE OF TAX~~:~~; BURDEN OF PROOF~~:~~; EXCLUSIONS~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

B. The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.

C. Exclusions. For the purposes of this chapter, sales of tangible personal property shall not include:

1. Sales of stocks, bonds, options, or other similar materials.

2. Sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.

3. Sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.

4. Gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another section of this ~~chapter~~ DIVISION imposes a tax shall be considered gross income of that business activity, and is not includable as gross income subject to the tax imposed by this section.

5. Sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

6. Sales of cash equivalents. The gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this chapter are subject to the tax. "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one (1) or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

a. Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

b. Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection ~~(~~G~~)~~ of this section.

D. Reserved.

E. When this City and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this chapter such city or town has sole and exclusive right to such tax.

F. The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this City or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

G. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

H. MEMBERSHIP, ADMISSION, OR OTHER FEES CHARGED BY LIMITED ACCESS RETAILERS ARE CONSIDERED PART OF TAXABLE GROSS INCOME OF THE BUSINESS ACTIVITY OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL.

I. SALES OF MERCHANDISE ACQUIRED ON CONSIGNMENT ARE TAXABLE AS RETAIL SALES. IN CASES WHERE THE MERCHANT IS ACTING AS AN AGENT ON BEHALF OF ANOTHER DEALER, SALES OF THE CONSIGNED MERCHANDISE ARE TAXABLE TO THE PRINCIPAL, PROVIDED THE MERCHANT MAKES FULL DISCLOSURE TO CUSTOMERS THAT HE IS ACTING ONLY AS AN AGENT FOR THE NAMED PRINCIPAL. HOWEVER, WHEN THE PRINCIPAL IS NOT DEEMED TO BE A DEALER, SUCH SALES ARE CONSIDERED TO BE THOSE OF THE MERCHANT AND ARE TAXABLE TO HIM.

J. A PERSON WHO ENGAGES IN MANUFACTURING, BALING, CRATING, BOXING, BARRELING, CANNING, BOTTLING, SACKING, PRESERVING, PROCESSING, OR OTHERWISE PREPARING FOR SALE OR COMMERCIAL USE ANY LIVESTOCK, AGRICULTURAL OR HORTICULTURAL PRODUCT, OR ANY OTHER PRODUCT, ARTICLE, SUBSTANCE, OR COMMODITY AND WHO SELLS THE PRODUCT OF SUCH BUSINESS AT RETAIL IN THIS STATE IS DEEMED, AS TO SUCH SALES, TO BE ENGAGED IN BUSINESS CLASSIFIED UNDER THE RETAIL CLASSIFICATION. THIS SUBSECTION DOES NOT APPLY TO:

1. AGRICULTURAL PRODUCERS WHO ARE OWNERS, PROPRIETORS, OR TENANTS OF AGRICULTURAL LANDS, ORCHARDS, FARMS, OR GARDENS WHERE AGRICULTURAL

PRODUCTS ARE GROWN, RAISED, OR PREPARED FOR MARKET AND WHO ARE MARKETING THEIR OWN AGRICULTURAL PRODUCTS.

2. BUSINESSES CLASSIFIED UNDER THE:

(A) ADVERTISING CLASSIFICATION.

(B) CONSTRUCTION CONTRACTING CLASSIFICATIONS.

(C) JOB PRINTING CLASSIFICATION.

(D) MANUFACTURED BUILDINGS CLASSIFICATION.

(E) PUBLISHING AND PERIODICAL DISTRIBUTION CLASSIFICATION.

(F) RESTAURANTS AND BARS CLASSIFICATION.

(G) TELECOMMUNICATIONS CLASSIFICATION.

(H) TRANSPORTING FOR HIRE CLASSIFICATION.

(I) UTILITY SERVICES CLASSIFICATION.

(J) WASTEWATER REMOVAL SERVICES CLASSIFICATION.

(Ord. 1924, 01/07/1997; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0462 RETAIL SALES:~~;~~ FOOD FOR HOME CONSUMPTION~~:~~

A. The tax rate shall be at an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of selling food for home consumption at retail.

B. For the purposes of this section only, the following definitions shall be applicable:

1. "Eligible grocery business" means an establishment ~~whose sales of food are such that it~~ THAT is DEEMED eligible to participate in the ~~food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958~~7 ~~U.S.C. Section~~ 2011 ~~et seq.), according to regulations in effect on January 1, 1979. An establishment is deemed eligible to participate in the food stamp program if it is authorized~~

~~to participate in the program by the United States Department of Agriculture Food and Nutrition Service field office on the effective date of this section, or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the tax collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND NUTRITION ACT OF 2008 (P.L. 110-246; 122 STAT. 1651; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036A) BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE OR AN ESTABLISHMENT THAT PROVES TO THE SATISFACTION OF THE DEPARTMENT OF REVENUE THAT, BASED ON THE NATURE OF THE ESTABLISHMENT'S FOOD SALES, COULD BE ELIGIBLE TO PARTICIPATE IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND NUTRITION ACT OF 2008.

2. "Facilities for the consumption of food" means tables, chairs, benches, booths, stools, counters, and similar conveniences, trays, glasses, dishes, or other tableware and parking areas for the convenience of in-car consumption of food in or on the premises on which the retailer conducts business.

3. "Food for consumption on the premises" means any of the following:

a. "Hot prepared food" as defined ~~in subsection (B)(4) of this section~~ BELOW.

b. Hot or cold sandwiches.

c. Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences and within parking areas for the convenience of in-car consumption of food.

d. Food served with trays, glasses, dishes, or other tableware.

e. Beverages sold in cups, glasses, or open containers.

f. Food sold by caterers.

g. Food sold within the premises of theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors, bowling alleys, public dances, dance halls,

boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amusement, entertainment, or instruction.

h. Any items contained in subsections (A)(3)(a) through (g) ~~of this section~~ ABOVE even though they are sold on a "take-out" or "to go" basis, and whether or not the item is packaged, wrapped, or is actually taken from the premises.

4. "Hot prepared food" means those products, items, or ingredients of food which are prepared and intended for consumption in a heated condition. "Hot prepared food" includes a combination of hot and cold food items or ingredients if a single price has been established.

5. "Premises" means the total space and facilities in or on which a vendor conducts business and which are owned or controlled, in whole or in part, by a vendor or which are made available for the use of customers of the vendor or group of vendors, including any building or part of a building, parking lot, or grounds.

6. "Food for home consumption" means all food, except food for consumption on the premises, if sold by any of the following:

a. An eligible grocery business.

b. A person who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.

c. A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.

d. A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two (2) cash registers and which are used to record taxable and tax exempt sales, or a retailer who conducts a delicatessen business who uses a cash register which has at least two (2) tax computing keys which are used to record taxable and tax exempt sales.

e. Vending machines and other types of automatic retailers.

f. A person's sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the State Department of Corrections, the Department of Public Safety, the Department of Juvenile Corrections or a County Sheriff.

C. Income derived from the following sources is exempt from the tax imposed by this section:

1. Sales of food for home consumption to a person regularly engaged in the business of selling such property.

2. Out-of-City sales or out-of-State sales.

3. Charges for delivery or other "direct customer services" as prescribed ~~by regulation~~ IN SECTION 3-05-001-0100.2.

4. ~~Food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 9587 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 U.S.C. Section 1786) but only to the extent that food stamps or food instruments were actually used to purchase such food.~~ ITEMS PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE COUPONS ISSUED UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PURSUANT TO THE FOOD AND NUTRITION ACT OF 2008 (P.L. 88-525; 78 STAT 703; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036B) BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE OR FOOD INSTRUMENTS ISSUED UNDER SECTION 17 OF THE CHILD NUTRITION ACT (P.L. 95-627; 92 STAT. 3603; P.L. 99-661, SECTION 4302; P.L. 111-296; 42 UNITED STATES CODE SECTION 1786).

5. Sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

6. Sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

7. Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

D. Reporting. Such persons who sell food for home consumption shall, in conjunction with the return required pursuant to Section 3-05-005-0520, report to the tax collector in a manner prescribed by the tax collector all sales of food for home consumption exempted from taxes imposed by this chapter.

E. Recordkeeping.

1. Retailers shall maintain accurate, verifiable, and complete records of all purchases and sales of tangible personal property in order to verify exemptions from taxes imposed by this chapter. A retailer may use any method of reporting that properly reflects all purchases and sales of food for home consumption, as well as all purchases and sales of items subject to taxes imposed by this chapter; provided, that such records are maintained in accordance with Article III~~, Arizona Revised Statutes, and regulations of the tax collector~~.

2. Any person who fails to maintain records as provided herein shall be deemed to have had no sales of food for home consumption, and if upon request by the tax collector, a person cannot demonstrate to the tax collector that such records and reports do properly reflect all sales of food for home consumption, the tax collector may recompute the amount of tax to be paid as provided in Sections 3-05-003-0370 and 3-05-005-0545(B)~~(A)(1)~~.

F. IF A CITY, TOWN, OR OTHER TAXING JURISDICTION IMPOSES A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE, OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE SALE OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION, THE TAX MUST BE APPLIED UNIFORMLY WITH RESPECT TO ALL FOOD, AND AN ADDITIONAL TAX OR FEE DIFFERENTIAL MAY NOT BE ASSESSED OR APPLIED WITH RESPECT TO ANY SPECIFIC FOOD ITEM.

(Ord. 2013-26, Enacted, 01/07/2014)

3-05-004-0465 RETAIL SALES~~:~~; EXEMPTIONS~~:~~

Income derived from the following sources is exempt from the tax imposed by Section 3-05-004-0460:

A. Sales of tangible personal property to a person regularly engaged in the business of selling such property.

B. Out-of-City sales or out-of-State sales, INCLUDING TANGIBLE PERSONAL PROPERTY SOLD IN INTERSTATE OR FOREIGN COMMERCE IF PROHIBITED FROM BEING SO TAXED BY THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF THIS STATE.

C. Charges for delivery, installation, or other direct customer services as prescribed by ~~regulation~~ SECTION 3-05-001-0100.2.

D. Charges for repair services as prescribed by regulation, when separately charged and separately maintained in the books and records of the taxpayer.

E. Sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.

F. Sales of prosthetics.

G. Sales of income-producing capital equipment.

H. ~~Sales of rental equipment and rental supplies~~ TANGIBLE PERSONAL PROPERTY SOLD TO A PERSON ENGAGED IN THE BUSINESS OF RENTING, LEASING, OR LICENSING FOR USE SUCH PROPERTY UNDER THE RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY CLASSIFICATION IF SUCH PROPERTY IS TO BE RENTED, LEASED, OR LICENSED FOR USE BY SUCH PERSON.

I. Sales of mining and metallurgical supplies.

J. Sales of:

1. motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.~~; or sales of~~

2. use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. § 28-5739.~~, or sales of~~

3. natural gas or liquefied petroleum gas used to propel a motor vehicle.

4. MOTOR VEHICLE FUEL AND USE FUEL TO A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROECTS AS DEFINED IN A.R.S. SECTION 41-1516.

5. REPAIR PARTS INSTALLED IN EQUIPMENT USED DIRECTLY BY A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516.

K. Sales of tangible personal property to:

1. a construction contractor who holds a valid privilege tax license for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.

2. A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 3-05-004-0415(B)(12) AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER A.R.S. SECTION 42-5009, SUBSECTION L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT, OR IMPROVEMENT DESCRIBED IN THE CERTIFICATE.

L. Sales of motor vehicles to nonresidents of this State for use outside this State if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the motor vehicle to a destination outside this State.

M. Sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.

N. ~~Sales made directly to the Federal government to the extent of~~ THE FOLLOWING SHALL BE DEDUCTED FROM THE TAX BASE FOR THE RETAIL CLASSIFICATION:

~~1. One hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.~~

~~2. Fifty percent (50%) of the gross income derived from retail sales made by any other person.~~

1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES MADE DIRECTLY TO THE UNITED STATES GOVERNMENT OR ITS DEPARTMENTS OR AGENCIES BY A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER.

2. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES MADE DIRECTLY TO A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER IF SUCH SALES ARE OF ANY INGREDIENT OR COMPONENT PART OF PRODUCTS SOLD DIRECTLY TO THE UNITED STATES GOVERNMENT OR ITS DEPARTMENTS OR AGENCIES BY THE MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER.

3. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.

4. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES OF OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY TO A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER IF THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE PROPERTY BY THE MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER WILL BE EXEMPT UNDER PARAGRAPH 3 OF THIS SUBSECTION.

5. FIFTY PERCENT OF THE GROSS PROCEEDS OR GROSS INCOME FROM ANY SALE OF TANGIBLE PERSONAL PROPERTY MADE DIRECTLY TO THE UNITED STATES GOVERNMENT OR ITS DEPARTMENTS OR AGENCIES THAT IS NOT DEDUCTED UNDER PARAGRAPHS 1 THROUGH 4 OF THIS SUBSECTION.

6. FOR THE PURPOSES OF THIS SUBSECTION:

(A) "OVERHEAD MATERIALS" MEANS TANGIBLE PERSONAL PROPERTY, THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THAT WOULD OTHERWISE BE INCLUDED IN THE RETAIL CLASSIFICATION, AND THAT ARE USED OR

CONSUMED IN THE PERFORMANCE OF A CONTRACT, THE COST OF WHICH IS CHARGED TO AN OVERHEAD EXPENSE ACCOUNT AND ALLOCATED TO VARIOUS CONTRACTS BASED ON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND CONSISTENT WITH GOVERNMENT CONTRACT ACCOUNTING STANDARDS.

(B) "SUBCONTRACT" MEANS AN AGREEMENT BETWEEN A CONTRACTOR AND ANY PERSON WHO IS NOT AN EMPLOYEE OF THE CONTRACTOR FOR FURNISHING OF SUPPLIES OR SERVICES THAT, IN WHOLE OR IN PART, ARE NECESSARY TO THE PERFORMANCE OF ONE OR MORE GOVERNMENT CONTRACTS, OR UNDER WHICH ANY PORTION OF THE CONTRACTOR'S OBLIGATION UNDER ONE OR MORE GOVERNMENT CONTRACTS IS PERFORMED, UNDERTAKEN, OR ASSUMED AND THAT INCLUDES PROVISIONS CAUSING TITLE TO OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY USED IN THE PERFORMANCE OF THE SUBCONTRACT TO PASS TO THE GOVERNMENT OR THAT INCLUDES PROVISIONS INCORPORATING SUCH TITLE PASSING CLAUSES IN A GOVERNMENT CONTRACT INTO THE SUBCONTRACT.

O. Sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 3-05-004-0455 or the equivalent excise tax upon such income.

P. ~~Sales of tangible personal property to~~ TANGIBLE PERSONAL PROPERTY SOLD TO:

1. a qualifying hospital~~, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.~~

2. A QUALIFYING HEALTH CARE ORGANIZATION IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE HEALTH AND MEDICAL RELATED EDUCATIONAL AND CHARITABLE SERVICES;

3. A QUALIFYING HEALTH CARE ORGANIZATION IF THE ORGANIZATION IS DEDICATED TO PROVIDING EDUCATIONAL, THERAPEUTIC, REHABILITATIVE, AND FAMILY MEDICAL EDUCATION TRAINING FOR BLIND AND VISUALLY IMPAIRED CHILDREN AND CHILDREN WITH MULTIPLE DISABILITIES FROM THE TIME OF BIRTH TO AGE TWENTY-ONE;

4. A QUALIFYING COMMUNITY HEALTH CENTER;

5. A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDERSECTION 6 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST;

6. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2001, A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDERSECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT PROVIDES RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY, IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY;

7. A QUALIFYING HEALTH SCIENCES EDUCATIONAL INSTITUTION;

8. ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON DESCRIBED IN SUBDIVISIONS 1 THROUGH 7 OF THIS PARAGRAPH IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O.

Q. (Reserved)

R. ~~(Reserved)~~ SALES OF:

1. ~~(Reserved)~~ LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESS OF FARMING, RANCHING, OR PRODUCING LIVESTOCK OR POULTRY.

2. ~~(Reserved)~~ LIVESTOCK AND POULTRY FEED, SALTS, VITAMINS, AND OTHER ADDITIVES FOR LIVESTOCK OR POULTRY CONSUMPTION THAT ARE SOLD TO PERSONS FOR USE OF CONSUMPTION BY THEIR OWN LIVESTOCK OR POULTRY, FOR USE OR CONSUMPTION IN THE BUSINESSES OF FARMING, RANCHING, AND PRODUCING OR FEEDING LIVESTOCK, POULTRY, OR LIVESTOCK OR POULTRY PRODUCTS OR FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

3. ~~(Reserved)~~ IMPLANTS USED AS GROWTH PROMOTANTS AND INJECTABLE MEDICINES, NOT ALREADY EXEMPT UNDER THE DEFINITION OF "PROSTHETIC," FOR LIVESTOCK, POULTRY, OR LIVESTOCK OR POULTRY PRODUCTS OR WHO ARE ENGAGED IN FEEDING LIVESTOCK OR POULTRY COMMERCIALLY. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

4. ~~(Reserved)~~ NEAT ANIMALS, HORSES, ASSES, SHEEP, RATITES, SWINE, OR GOATS USED OR TO BE USED AS BREEDING OR PRODUCTION STOCK, INCLUDING SALES OF BREEDINGS OR OWNERSHIP SHARES IN SUCH ANIMALS USED FOR BREEDING OR PRODUCTION.

S. Sales of groundwater measuring devices required by A.R.S. § 45-604.

T. (Reserved)

U. ~~Sales of aircraft acquired for use outside the State, as prescribed by regulation.~~ SEEDS, SEEDLINGS, ROOTS, BULBS, CUTTINGS, AND OTHER PROPAGATIVE MATERIAL TO PERSONS WHO USE THOSE ITEMS TO COMMERCIALLY PRODUCE AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS IN THIS STATE.

V. Sales of food products by producers as provided for by A.R.S. §§ 3-561, 3-562 and 3-563. THIS INCLUDES SALES MADE DIRECTLY BY OWNERS, PROPRIETORS, OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY OF THE FOLLOWING:

1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR POULTRY COMMERCIALLY.

3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR POULTRY COMMERCIALLY OR WHO BOARD LIVESTOCK NONCOMMERCIALLY.

W. (Reserved)

X. Sales of food and drink to a person who is engaged in business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during such employees' hours of employment.

Y. (Reserved)

Z. (Reserved)

AA. The sale of tangible personal property used in remediation contracting as defined in Section 3-05-001-0100 and ~~Regulation 3-5-100.5, Section 3-05-007-0001~~ SECTION 3-05-001-0100.5.

BB. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or Federal, State, County or municipal libraries for use by the public as follows:

1. Printed or photographic materials.

2. Electronic or digital media materials.

CC. ~~Sales~~ TANGIBLE PERSONAL PROPERTY SOLD TO A COMMERCIAL AIRLINE AND CONSISTING of food, beverages~~,~~ AND condiments and accessories used for serving THE food and beverages, ~~to a commercial airline, as defined in A.R.S. § 42-5061(A)(49), that serves the food and beverages to its passengers,~~ IF THOSE ITEMS ARE TO BE PROVIDED without additional charge~~,~~ TO PASSENGERS for consumption in flight. For the purposes of this ~~subsection~~ PARAGRAPH, ~~"accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food~~ "COMMERCIAL AIRLINE" MEANS A PERSON HOLDING A FEDERAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY OR FOREIGN AIR CARRIER PERMIT FOR AIR TRANSPORTATION TO TRANSPORT PERSONS, PROPERTY, OR UNITED STATES MAIL IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE.

DD. In computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are

taxable under Section 3-05-004-0470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

EE. For the purposes of this section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 3-05-004-0470 is considered to be a sale for resale in the regular course of business.

FF. Sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or A.R.S. § 49-480.

GG. Sales of food, beverages, condiments and accessories to a public educational entity~~,~~ pursuant to any of the provisions of Title 15, Arizona Revised Statutes, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. § 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

HH. Sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 3-05-004-0444 if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

II. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. CONVERTING NATURAL GAS INTO LIQUEFIED NATURAL GAS, FOR THE SOLE PURPOSE OF FUELING COMPRESSOR EQUIPMENT USED IN THE CONVERSION PROCESS, IS NOT A SALE OF GAS TO THE OPERATOR OF THE COMPRESSOR EQUIPMENT.

JJ. Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

KK. Sales of ~~motor vehicles that use~~ alternative fuel VEHICLES if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. § 1-215.

LL. Sales of solar energy devices., ~~for taxable periods beginning from and after July 1, 2008.~~ The retailer shall register with the department of revenue as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department ~~of Revenue and City, as applicable,~~ for examination.

MM. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this ~~subsection~~ PARAGRAPH, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

NN. Sales of magazines or other periodicals or other publications by this state to encourage tourist travel.

OO. Sales of paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

~~PP. Sales of overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.~~

~~QQ~~PP. Sales of ~~coal,~~ petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in A.R.S. Section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This ~~subsection~~ PARAGRAPH

shall apply for twenty (20) full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

~~RR~~QQ. Sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in A.R.S. Section 41-1514.02. This subsection applies for ten (10) full consecutive calendar or fiscal years after the start of initial construction.

RR. THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE OF REFINING THE COAL; AND

2. THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

SS. (RESERVED)

TT. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR, OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER A.R.S. SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR, OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER," "COMPUTER DATA CENTER EQUIPMENT," "QUALIFICATION PERIOD," AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN A.R.S. SECTION 41-1519.

UU. THE SALE, MANUFACTURE, WHOLESALE, OR DISTRIBUTION TO OR AMONG ANY WHOLESALERS, DISTRIBUTORS, OR RETAILERS, OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS

DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

VV. THE SALE OF ANY CONTAINER OR PACKAGING USED EXCLUSIVELY FOR TRANSPORTING, PROTECTING, OR CONSUMING FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

WW. MACHINERY, EQUIPMENT, TECHNOLOGY, OR RELATED SUPPLIES THAT ARE ONLY USEFUL TO ASSIST A PERSON WITH A PHYSICAL DISABILITY AS DEFINED IN A.R.S. SECTION 46-191 OR A PERSON WHO HAS A DEVELOPMENTAL DISABILITY AS DEFINED IN A.R.S. SECTION 36-551 OR HAS A HEAD INJURY AS DEFINED IN A.R.S. SECTION 41-3201 TO BE MORE INDEPENDENT AND FUNCTIONAL.

XX. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE, OR STATE UNIVERSITY. FOR THE PURPOSES OF THIS PARAGRAPH:

1. "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.

2. "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING, OR REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS, OR OTHER LEARNING ACTIVITIES.

YY. SALES OF COAL.

(Ord. 1924, 01/07/1997; Ord. 1979, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-29, Amended, 11/21/2000; Ord. 2001-04, Amended, 01/16/2001; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/16/2009; Ord. 2013-26, Amended, 01/07/2014)

3-05-004-0470 TELECOMMUNICATION SERVICES (REG. 470.1):

SEE ALSO REGULATION 3-5-470.1.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this City.

1. Telecommunication services shall include:

a. Two-way voice, sound and/or video communication over a communications channel.

b. One-way voice, sound, and/or video transmission or relay over a communications channel.

c. Facsimile transmissions.

d. Providing relay or repeater service.

e. Providing computer interface services over a communications channel.

f. Time-sharing activities with a computer accomplished through the use of a communications channel.

2. Gross income from the business activity of providing telecommunication services to consumers within this City shall include:

a. All fees for connection to a telecommunication system.

b. Toll charges, charges for transmissions, and charges for other telecommunications services; provided, that such charges relate to transmissions originating in the City and terminating in this State.

c. Fees charged for access to or subscription to or membership in a telecommunication system or network.

~~d. Charges for monitoring services relating to a security or burglar alarm system located within the City where such system transmits or receives signals or data over a communications channel.~~

eD. Charges for telephone, fax or Internet access services provided at an additional charge by a hotel business subject to taxation under Section 3-05-004-0444.

B. Resale Telecommunication Services. Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this section; provided, however, that such purchaser is properly licensed by the City to engage in such business.

C. Interstate Transmissions. Charges by a provider of telecommunication services for transmissions originating in the City and terminating outside the State are exempt from the tax imposed by this section.

~~D. (Reserved)~~

D. TAX CREDIT OFFSET FOR FRANCHISE FEES. THERE SHALL BE ALLOWED AS AN OFFSET, UP TO THE AMOUNT OF TAX DUE, ANY AMOUNTS PAID TO THE CITY FOR LICENSE FEES OR FRANCHISE FEES, BUT SUCH OFFSET SHALL NOT BE ALLOWED AGAINST TAXES IMPOSED BY ANY OTHER SECTION OF THIS CHAPTER. SUCH OFFSET SHALL NOT BE DEEMED IN CONFLICT WITH OR VIOLATION OF SUBSECTION 3-05-004-0400(B).

E. However, gross income from the providing of telecommunication services by a cable television system, as such system is defined in A.R.S. Section 9-505, shall be exempt from the tax imposed by this section.

F. Prepaid Calling Cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 3-05-004-0460 are exempt from the tax imposed under this section.

G. Internet Access Services. The gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:

1. "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or Internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

2. "Internet access" means a service that enables users to access content, information, electronic mail or other services over the Internet. Internet access does not include telecommunication services provided by a common carrier.

H. ALARM MONITORING SERVICES. THE GROSS INCOME SUBJECT TO TAX UNDER THIS SECTION SHALL NOT INCLUDE SALES OF MONITORING SERVICES RELATING TO AN ALARM SYSTEM AS DEFINED IN A.R.S. SECTION 32-101.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2008, Amended, 11/02/1999; Ord. 2004-25, Amended, 01/10/05; Ord. 2006-16, Amended 06/06/2006; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0475 TRANSPORTING FOR HIRE (REG. 475.1)~~:~~

SEE ALSO REGULATION 3-5-475.1.

The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this City to another point within the State:

A. Transporting of persons or property by railroad; provided, however, that the tax imposed by this subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this State if the transportation comprises a portion of a single shipment of freight or property, involving more than one (1) railroad, either from a point in this State to a point outside this State or from a point outside this State to a point in this State. For purposes of this ~~subsection~~ PARAGRAPH, "a single shipment" means the transportation that begins at the point at which one (1) of the railroads first takes possession of the freight or property and continues until the point at which one (1) of the railroads relinquishes possession of the freight or property to a party other than one (1) of the railroads.

B. Transporting of oil or natural or artificial gas through pipe or conduit.

C. Transporting of property by aircraft.

D. Transporting of persons or property by motor vehicle, including towing and the operation of private car ~~lines~~ COMPANIES, as such are defined in ~~Article III, Chapter 4~~ ARTICLE VII, CHAPTER 14, Title 42, A.R.S.; provided, however, that the tax imposed by this subsection shall not apply to:

1. Gross income subject to the tax imposed by ~~Article VI, Chapter 9~~ ARTICLE IV, CHAPTER 16, Title 28, A.R.S.

2. Gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.

3. Reserved

4. Reserved

E. Reserved

F. Deductions or Exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this section:

1. Income that is specifically included as the gross income of a business activity upon which another section of this division ~~(Article IV of the City Tax Code)~~ imposes a tax that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

2. Income from arranging amusement or transportation when the amusement or transportation is conducted by another person not to exceed consideration paid to the amusement or transportation business.

3. ANY AMOUNT ATTRIBUTABLE TO FEES COLLECTED BY TRANSPORTATION NETWORK COMPANIES ISSUED A PERMIT PURSUANT TO A.R.S. SECTION 28-9552.

4. TRANSPORTING FOR HIRE PERSONS BY TRANSPORTATION NETWORK COMPANY DRIVERS ON TRANSACTIONS INVOLVING TRANSPORTATION NETWORK SERVICES AS DEFINED IN A.R.S. SECTION 28-9551.

5. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE COMPANIES ISSUED A PERMIT PURSUANT TO A.R.S. SECTION 28-9503.

6. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE DRIVERS ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES AS DEFINED IN A.R.S. SECTION 28-9501.

G. The tax imposed by this section shall not include arranging transportation as a convenience to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property

for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this ~~subsection~~ PARAGRAPH, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2013-02, Amended, 04/02/2013; Ord. 2014-34, Amended, 01/06/2015; Ord. 2015-05, Amended, 05/19/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0480 UTILITY SERVICES~~:~~

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:

1. Consumers or ratepayers who reside within the City.

2. Consumers or ratepayers of this City, whether within the City or without, to the extent that this City provides such persons utility services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this City for providing such utility services to such persons.

B. Exclusion of Certain Sales of Natural Gas to a Public Utility. Notwithstanding the provisions of subsection ~~(A) of this section~~ A ABOVE, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to Sections 3-5-004-0460 and 3-5-004-0465, and not considered gross income taxable under this section.

C. Resale Utility Services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to

engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

D. (Reserved)

E. The tax imposed by this section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

F. The tax imposed by this section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

G. The tax imposed by this section shall not apply to:

1. Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.

H. The tax imposed by this section shall not apply to sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or A.R.S. § 49-480.

I. The tax imposed by this section shall not apply to sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this ~~subsection~~ PARAGRAPH, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

J. The tax imposed by this section shall not apply to the portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy

generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

K. RESERVED.

(Ord. 1924, 01/07/1997; Ord. 1979, Amended, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2006-16, Amended, 06/06/2006; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0485 WASTEWATER REMOVAL SERVICES

A. The tax rate shall be an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of providing wastewater removal services by means of sewer lines or similar pipelines to:

1. Consumers or ratepayers who reside within the City.

2. Consumers or ratepayers of this City, whether within the City or without, to the extent that this City provides such persons wastewater removal services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this City for providing such wastewater removal services to such persons.

B. The tax imposed by this section shall not apply to gross income relating to the providing of wastewater removal services from a qualifying hospital, qualifying community health center or a qualifying health care organization.

(Ord. 2013-26, Enacted, 01/07/2014)

3-05-004-0490 RESERVED:

DIVISION 3-05-005

ADMINISTRATION

SECTIONS:

3-05-005-0500 ADMINISTRATION OF THIS CHAPTER; RULE MAKING~~:~~

3-05-005-0510 DIVULGING OF INFORMATION PROHIBITED; EXCEPTIONS ALLOWING DISCLOSURE~~:~~

3-05-005-0515 DUTIES OF THE TAXPAYER PROBLEM RESOLUTION OFFICER~~:~~

3-05-005-0516 TAXPAYER ASSISTANCE ORDERS~~:~~

3-05-005-0517 BASIS FOR EVALUATING EMPLOYEE PERFORMANCE~~:~~

3-05-005-0520 REPORTING AND PAYMENT OF TAX~~:~~

3-05-005-0530 WHEN TAX DUE; WHEN DELINQUENT; VERIFICATION OF RETURN; EXTENSIONS~~:~~

3-05-005-0540 INTEREST AND CIVIL PENALTIES~~:~~

3-05-005-0541 ERRONEOUS ADVICE OR MISLEADING STATEMENTS BY THE TAX COLLECTOR; ABATEMENT OF PENALTIES AND INTEREST; DEFINITION~~:~~

3-05-005-0542 PROSPECTIVE APPLICATION OF NEW LAW OR INTERPRETATION OR APPLICATION OF LAW

3-05-005-0545 DEFICIENCIES; WHEN INACCURATE RETURN IS FILED; WHEN NO RETURN IS FILED; ESTIMATES~~:~~

3-05-005-0546 CLOSING AGREEMENTS IN CASES OF EXTENSIVE TAXPAYER MISUNDERSTANDING OR MISAPPLICATION; ~~CITY ATTORNEY~~ APPROVAL; RULES~~:~~

3-05-005-0550 LIMITATION PERIODS~~:~~

3-05-005-0553 EXAMINATION OF TAXPAYER RECORDS; JOINT AUDITS

3-05-005-0555 TAX COLLECTOR MAY EXAMINE BOOKS AND OTHER RECORDS; FAILURE TO PROVIDE RECORDS~~:~~

3-05-005-0556 NO ADDITIONAL AUDITS OR PROPOSED ASSESSMENTS; EXCEPTIONS~~:~~

3-05-005-0560 ERRONEOUS PAYMENT OF TAX; CREDITS AND REFUNDS; LIMITATIONS~~:~~

3-05-005-0565 PAYMENT OF TAX BY THE INCORRECT TAXPAYER OR TO THE INCORRECT ARIZONA CITY OR TOWN~~:~~

3-05-005-0567 RESERVED~~:~~

3-05-005-0570 ADMINISTRATIVE REVIEW; PETITION FOR HEARING OR FOR REDETERMINATION; FINALITY OF ORDER~~:~~

3-05-005-0571 JEOPARDY ASSESSMENTS (REG. 571.1):
3-05-005-0572 EXPEDITED REVIEW OF JEOPARDY ASSESSMENTS:
3-05-005-0575 JUDICIAL REVIEW:
3-05-005-0577 REFUNDS OF TAXES PAID UNDER PROTEST:
3-05-005-0578 REIMBURSEMENT OF FEES AND OTHER COSTS; DEFINITIONS:
3-05-005-0580 CRIMINAL PENALTIES:
3-05-005-0590 CIVIL ACTIONS:
3-05-005-0595 COLLECTION OF TAXES WHEN THERE IS SUCCESSION IN AND/OR CESSATION OF BUSINESS:
3-05-005-0596 AGREEMENT FOR INSTALLMENT PAYMENTS OF TAX
3-05-005-0597 PRIVATE TAXPAYER RULINGS; REQUEST; REVOCATION OR MODIFICATION; DEFINITION:

3-05-005-0500 ADMINISTRATION OF THIS CHAPTER; RULE MAKING:

A. The administration of this chapter is vested in the Tax Collector, except as otherwise specifically provided, and all payments shall be made to the Tax Collector.

B. The Tax Collector shall prescribe the forms and procedures necessary for the administration of the taxes imposed by this chapter.

C. Except as provided in this section, no rule or regulation shall be adopted until approved by formal action of the City Council.

D. Reserved.

D. TAXPAYERS SHALL BE SUBJECT TO THE STATE TAXPAYER BILL OF RIGHTS (A.R.S. SECTION 42-2051 ET. SEQ).

E. The Unified Audit Committee shall publish uniform guidelines that interpret the Model City Tax Code and that apply to all cities and towns that have adopted the Model City Tax Code as provided by A.R.S. Section 42-6005.

(1) Prior to finalization of Uniform Guidelines that interpret the Model City Tax Code, the Unified Audit Committee shall disseminate draft guidelines for public comment.

(2) Pursuant to A.R.S. Section 42-6005(D), when the State statutes and Model City Tax Code are the same and where the Arizona Department of Revenue has ISSUED written guidance, the Department's interpretation is binding on cities and towns.

(Ord. 1924, 01/07/1997; Ord. No. 2004-25, Amended, 01/10/05)

3-05-005-0510 DIVULGING OF INFORMATION PROHIBITED; EXCEPTIONS ALLOWING DISCLOSURE:

A. Except as specifically provided, it shall be unlawful for any official or employee of the City to make known information obtained pursuant to this chapter concerning the business financial affairs or operations of any person.

B. The City Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this chapter by authorized agents of the Federal government, the State of Arizona, or any political subdivisions.

C. The Tax Collector may provide to an Arizona county, city, or town any information concerning any taxes imposed in this chapter relative to the taxing ordinances of that county, city, or town.

D. Successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees, if directly interested, may be given information by the Tax Collector as to the items included in the measure and amounts of any unpaid tax, interest, and penalties required to be paid.

E. Upon a written direction by the City Attorney or other legal advisor to the City designated by the City Council, officials or employees of the City may divulge the amount and source of income, profits, leases, or expenditures disclosed in any return or report, and the amount of such delinquent and unpaid tax, penalty, or interest, to a private collection agency having a written collection agreement with the City.

F. The Tax Collector shall provide information to appropriate representatives of any Arizona city or town to comply with the provisions of Arizona Revised Statutes Section 42-6003, A.R.S. Section 42-6005 and A.R.S. Section 42-6056.

G. The Tax Collector may provide information to authorized agents of any other Arizona governmental agency involving the allocation of taxes imposed by Section 3-05-004-0435 upon publishing and distribution of periodicals.

H. The Tax Collector shall provide information regarding the enforcement and collection of taxes imposed by this Chapter to any governmental agency with which the City has an agreement.

(Ord. No. 2004-25, Amended, 01/10/05)

3-05-005-0515 DUTIES OF THE TAXPAYER PROBLEM RESOLUTION OFFICER

A. The Taxpayer Problem Resolution Officer shall assist taxpayers in:

1. Obtaining easily understandable tax information and information on audits, corrections and appeals procedures of the City.

2. Answering questions regarding preparing and filing the returns required under this Chapter.

3. Locating documents filed with or payments submitted to the Tax Collector by the taxpayer.

B. The Taxpayer Problem Resolution Officer shall also:

1. Receive and evaluate complaints of improper, abusive or inefficient service by the Tax Collector or any of his designees, employees, or agents and recommend to the City Manager or, for a city without a city manager, the chief administrative officer appropriate action to correct such service.

2. Identify policies and practices of the Tax Collector or any of his designees, employees, or agents that might be barriers to the equitable treatment of taxpayers and recommend alternatives to the City Manager or, for a city without a city manager, the chief administrative officer.

3. Provide expeditious service to taxpayers whose problems are not resolved through normal channels.

4. Negotiate with the Tax Collector, his designees, employees, or agents to resolve the most complex and sensitive taxpayer problems.

5. Take action to stop or prohibit the tax collector from taking an action against a taxpayer.

6. Participate and present taxpayers' interests and concerns in meetings formulating the City's policies and procedures under and interpretation of this Chapter.

7. Compile data each year on the number and type of taxpayer complaints and evaluate the actions taken to resolve those complaints.

8. Survey taxpayers each year to obtain their evaluation of the quality of service provided by the Tax Collector, his designees, employees, and agents.

9. Perform other functions which relate to taxpayer assistance as prescribed by the City Manager or, for a city without a city manager, the chief administrative officer.

C. Actions taken by the Taxpayer Problem Resolution Officer may be reviewed and/or modified only by the City Manager or, for a city without a city manager, the chief administrative officer upon request of the Tax Collector or a taxpayer.

D. The Mayor and Council of the City shall be provided with a report quarterly which identifies:

1. Any complaints of improper, abusive or inefficient service received by the Taxpayer Problem Resolution Officer since the date of the last report.

2. Any recommendations made, action taken or surveys obtained by the Taxpayer Problem Resolution Officer pursuant to subsection B.1.-9., above, since the date of the last report.

(Ord. 1924, 01/07/97)

3-05-005-0516 TAXPAYER ASSISTANCE ORDERS

A. The Taxpayer Problem Resolution Officer, with or without a formal written request from a taxpayer, may issue a taxpayer assistance order that suspends or stays an action or proposed action by the Tax Collector if, in the problem resolution officer's determination, a taxpayer is suffering or will suffer a significant hardship due to the manner in which the Tax Collector is administering the tax laws.

B. A taxpayer assistance order may require the Tax Collector to release any lien perfected under this Chapter, or cease any action or refrain from taking any action to enforce against the taxpayer any section of this Chapter pending resolution of the issue giving rise to the taxpayer assistance order.

C. The Taxpayer Problem Resolution Officer, City Manager or, for a city without a city manager, the chief administrative officer may modify, reverse or rescind a taxpayer assistance order. A taxpayer assistance order is binding on the Tax Collector until it is reversed or rescinded.

D. The running of the applicable statute of limitations for any action that is the subject of a taxpayer assistance order is suspended from the date the taxpayer applies for the order or the date the order is issued, whichever is earlier, until the order's expiration date, modification date or recision date, if any. Interest that

would otherwise accrue on an outstanding tax obligation is not affected by the issuance of a taxpayer assistance order.

E. A taxpayer assistance order may not be used:

1. To contest the merits of a tax liability.

2. To substitute for informal protest procedures or administrative or judicial proceedings to review a deficiency assessment, collection action or denial of a refund claim.

(Ord. 1924, 01.07/97)

3-05-005-0517 BASIS FOR EVALUATING EMPLOYEE PERFORMANCE.

A. The Tax Collector shall solicit evaluations from taxpayers and include such evaluations in the performance appraisals of his employees, where applicable.

B. The Tax Collector shall not evaluate an employee on the basis of taxes assessed or collected by that employee.

(Ord. 1924, 01/07/97)

3-05-005-0520 REPORTING AND PAYMENT OF TAX.

A. Returns: The returns required under this Chapter shall be made upon forms prescribed or approved by the Tax Collector, and shall be considered filed only when the accuracy of the return has been attested to, by signature upon the form, by an authorized agent of the taxpayer, and when such form has been received by the Tax Collector.

B. Payment: If payment is made in any form other than United States legal tender, the tax obligation shall not be satisfied until the payment has been honored in funds.

C. Requirement of Security: If a taxpayer has remitted payment in the form of a check or other form of draw upon a bank or third party and such remittance has not been honored in funds, the Tax Collector may demand security for future payments.

D. Method of Reporting: Each taxpayer shall elect to report on either a cash receipts basis or an accrual basis and shall indicate the choice on the privilege license application. A taxpayer shall not change his reporting method without receiving prior written approval by the Tax Collector.

1. Taxpayers must report all gross income subject to the tax using the same basis of reporting.

2. Taxes imposed upon construction contracting shall be reported as follows:

   a. Construction contractors shall report on either a progressive billing ("accrual") basis or cash receipts basis.

   b. Speculative builders shall report the gross income derived from sale of improved real property at close of escrow or at transfer of title or possession, whichever occurs earlier.

   c. Owner-builders who are not speculative builders shall report taxable amounts as provided in Section 3-05-004-0417.

3-05-005-0530 WHEN TAX DUE; WHEN DELINQUENT; VERIFICATION OF RETURN; EXTENSIONS~~:~~

A. Except as provided elsewhere in this Section, the taxes shall be due and payable monthly on or before the twentieth (20th) day of the month next succeeding the month in which the tax accrues.

~~1. Quarterly returns. The Tax Collector may authorize a taxpayer whose reporting history indicates an estimated annual City privilege and use tax liability on taxable gross income in excess of five thousand dollars ($5,000.00) but less than fifty thousand dollars ($50,000.00) to file returns on a calendar-quarterly basis.~~

~~The taxes for each calendar quarter shall be due and payable on or before the twentieth (20th) day of the month next succeeding the end of each calendar quarter.~~

~~2. Annual returns. The Tax Collector may authorize a taxpayer whose reporting history indicates an estimated annual City privilege and use tax liability on taxable gross income of not more than five thousand dollars ($5,000.00) to file returns for such taxes on a calendar-annual basis. The taxes for each calendar year shall be due and payable on or before January 20 of the following year.~~

~~B. Special Requirements of Taxpayers Filing Quarterly or Annual Returns: No taxpayer may report on a quarterly or annual basis until he has established, to the Tax Collector's satisfaction, six (6) months reporting history. It is the taxpayer's responsibility to notify the Tax Collector and increase his reporting frequency (to quarterly or monthly as applicable) when his taxable income or tax due exceeds the maximum limits for his current reporting frequency. Failure to do so may be deemed negligence or evasion, and penalties may apply.~~

~~Failure to file returns timely, without good cause shown to the satisfaction of the Tax Collector, is sufficient cause for the Tax Collector to deny future filings by the taxpayer on a quarterly or annual basis.~~

B. ANY PERSON WHO IS ENGAGED IN OR CONDUCTING BUSINESS IN TWO OR MORE LOCATIONS OR UNDER TWO OR MORE BUSINESS NAMES SHALL FILE THE RETURN REQUIRED UNDER THIS CHAPTER BY ELECTRONIC MEANS.

~~C. Delinquency Date: Except as provided in subsection D. below, all returns and remittances received within the Tax Collector's office on or before the last business day of the month when due shall be regarded as timely filed. The start of business of the first business day following the month when due shall be the delinquency date. It shall be the taxpayer's responsibility to cause his return and remittance to be timely received. Mailing the return or remittance on or before the due date or delinquency date does not relieve the taxpayer of the responsibility of causing his return or remittance to be received by the last business day of the month when due.~~

C. THE DEPARTMENT, FOR ANY TAXPAYER WHOSE ESTIMATED ANNUAL LIABILITY FOR TAXES IMPOSED OR ADMINISTERED BY A.R.S. TITLE 42, CHAPTER 5, ARTICLE 1, OR A.R.S TITLE 42, CHAPTER 6, IS BETWEEN TWO THOUSAND DOLLARS AND EIGHT THOUSAND DOLLARS, SHALL AUTHORIZE SUCH TAXPAYER TO PAY SUCH TAXES ON A QUARTERLY BASIS. THE DEPARTMENT, FOR ANY TAXPAYER WHOSE ESTIMATED ANNUAL LIABILITY FOR TAXES IMPOSED OR ADMINISTERED BY A.R.S. TITLE 42, CHAPTER 5, ARTICLE 1, OR A.R.S. TITLE 42, CHAPTER 6, IS LESS THAN TWO THOUSAND DOLLARS SHALL AUTHORIZE SUCH TAXPAYER TO PAY SUCH TAXES ON AN ANNUAL BASIS.

D. DELINQUENCY DATE: THE TAXES LEVIED UNDER THIS CHAPTER WILL BE CONSIDERED DELINQUENT IN ACCORDANCE WITH A.R.S. SECTION 42-5014, AS FOLLOWS:

1. FOR TAXPAYERS THAT ARE REQUIRED OR ELECT TO FILE AND PAY ELECTRONICALLY IN ANY MONTH, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE LAST BUSINESS DAY OF THE MONTH.

2. FOR ALL OTHER TAXPAYERS, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH.

~~D~~E. Jeopardy Reporting: If the Tax Collector determines that the collection of any tax due to the City is in jeopardy, the Tax Collector may direct the taxpayer to file his return and remit the tax on a weekly, daily, or transaction-by-transaction basis. Such return and remittance shall be due upon the date fixed by the Tax Collector, and the "delinquency date" shall be the following day.

~~E~~F. Extensions: The Tax Collector may extend the time for filing a return, for good cause shown, and only when requested in writing and received by the Tax Collector prior to the tax due date. However, the time for filing such return shall not be extended beyond the last business day of the month next succeeding the due date of such return. In such cases, only the penalties for late filing and late payment may be waived by the Tax Collector for filing and payment within the extension period. Notwithstanding the granting of an extension, the interest payable for late payment of taxes shall be paid for the period commencing upon the original delinquency date and ending on the date the tax is paid. The interest may not be waived by the Tax Collector.

(Ord. 1851, 01/03/95) (Revised, Ordinance No. 2006-19, 08/01/2006)

3-05-005-0540 INTEREST AND CIVIL PENALTIES~~:~~

A. Any taxpayer who failed to pay any of the taxes imposed by this Chapter which were due or found to be due before the delinquency date shall be subject to and shall pay interest upon such tax, until paid. From and after October 1, 2005, the interest rate shall be determined in the same manner and at the same times as prescribed by Section 6621 of the United States Internal Revenue Code and compounded annually under the method described in Subsection 1 below. The rate of interest for both overpayments and underpayments for all taxpayers is the federal short-term rate, determined pursuant to Section 6621(b) of the Internal Revenue code, plus three percentage points. The interest rate prior to October 1, 2005 shall be one percent (1.0%) per month. Said interest may be neither waived by the Tax Collector nor abated by the Hearing Officer except as it might relate to a tax abated as provided by Section 3-05-005-0570.

1. On January 1 of each year any interest outstanding as of that date that was accrued from and after October 1, 2005 is thereafter considered a part of the principal amount of the tax and accrues interest pursuant to this section.

2. Interest accrued prior to October 1, 2005 shall not be added to the principal.

B. In addition to interest assessed under subsection A. above, any taxpayer who failed to pay any of the taxes imposed by this Chapter which were due or found to be due before the delinquency date shall be subject

to and shall pay any or all of the following civil penalties, in addition to any other penalties prescribed by this Chapter:

1. A taxpayer who fails to timely file a return for a tax imposed by this Chapter shall pay a penalty of five percent (5%) of the tax for each month or fraction of a month elapsing between the delinquency date of the return and the date on which it is filed, unless the taxpayer shows that the failure to timely file is due to reasonable cause and not due to wilful neglect. This penalty shall not exceed twenty-five percent (25%) of the tax due.

2. A taxpayer who fails to pay the tax within the time prescribed shall pay a penalty of ten percent (10%) of the unpaid tax, unless the taxpayer shows that the failure to timely pay is due to reasonable cause and not due to wilful neglect. If the taxpayer is also subject to a penalty under subsection B.1. above for the same period, the total penalties under subsection B.1.and this subsection shall not exceed twenty five percent (25%) of the tax due.

3. A taxpayer who fails or refuses to file a return within thirty (30) days of having received a written notice and demand from the Tax Collector shall pay a penalty of twenty five percent (25%) of the tax, unless the taxpayer shows that the failure is due to reasonable cause and not due to wilful neglect or the Tax Collector agrees to a longer time period.

4. If the cause of a tax deficiency is determined by the Tax Collector to be due to negligence, but without regard for intent to defraud, the taxpayer shall pay a penalty of ten percent (10%) of the amount of deficiency. If the taxpayer is also subject to a penalty under subsection B.1. or B.2. above for the same tax period, the total penalties imposed under subsection B.1., B.2. and this subsection shall not exceed twenty-five percent (25%) of the tax due.

5. If the cause of a tax deficiency is determined by the Tax Collector to be due to civil fraud or evasion of the tax, the taxpayer shall pay a penalty of fifty percent (50%) of the amount of deficiency.

C. Penalties and interest imposed by this Section are due and payable upon notice by the Tax Collector.

D. If, following an audit, penalties attributable to the audit period are to be assessed pursuant to subsection B.1. or B.2. above, the Tax Collector, before assessing such penalties, must take into consideration any information or explanations provided by the taxpayer as to why the return was not timely filed and/or the tax was not timely paid. If such information and/or explanations are provided by the taxpayer, and the Tax Collector ~~never the less~~ NEVERTHELESS decides to assess penalties pursuant to subsection B.1. ~~and~~ OR B.2. above,

then, at the time the penalties are assessed, the Tax Collector must provide the taxpayer with a detailed written explanation of the basis for the Tax Collector's determination that the information and/or explanations provided by the taxpayer did not constitute reasonable cause.

E. The assessment of the penalties prescribed by subsection B.3. through B.5. above must be approved on a case-by-case basis by the Tax Collector prior to such assessment. In addition, any assessment which includes penalties based upon subsection B.3., B.4., or B.5. above must be accompanied by a statement signed by the Tax Collector setting forth in detail the basis for the Tax Collector's determination that the penalties are warranted under the circumstances.

F. The Tax Collector shall waive or adjust penalties imposed by subsections B.1. and B.2. above upon a finding that:

1. In the past, the taxpayer has consistently filed and paid the taxes imposed by this Chapter in a timely manner; or

2. The amount of the penalty is greatly disproportionate to the amount of the tax; or

3. The failure of a taxpayer to file a return and/or pay any tax by the delinquency date was caused by any of the following circumstances which must occur prior to the delinquency date of the return or payment in question:

a. The return was timely filed but was inadvertently forwarded to another taxing jurisdiction.

b. Erroneous or insufficient information was furnished the taxpayer by the Tax Collector or his employee or agent.

c. Death or serious illness of the taxpayer, member of his immediate family, or the preparer of the reports immediately prior to the due date.

d. Unavoidable absence of the taxpayer immediately prior to the due date.

e. Destruction, by fire or other casualty, of the taxpayer's place of business or records.

f. Prior to the due date, the taxpayer made application for proper forms which could not be furnished in sufficient time to permit a timely filing.

g. The taxpayer was in the process of pursuing an active protest of the tax in question in another taxing jurisdiction at the time the tax and/or return was due.

h. The taxpayer establishes through competent evidence that the taxpayer contacted a tax advisor who is competent on the specific tax matter and, after furnishing necessary and relevant information, the taxpayer was incorrectly advised that no tax was owed and/or the filing of a return was not required.

i. The taxpayer has never been audited by a city for the tax or on the issue in question and relied, in good faith, on a State exemption or interpretation.

j. The taxpayer can provide some public record (court case, report in a periodical, professional journal or publication, etc.) stating that the transaction is not subject to tax.

k. The Arizona Department of Revenue, based upon the same facts and circumstances, abated penalties for the same filing period.

A taxpayer may also request a waiver or adjustment of penalty for a reason thought to be equally substantive to those reasons itemized above. All requests for waiver or adjustment of penalty must be in writing and shall contain all pertinent facts and other reliable and substantive evidence to support the request. In all cases, the burden of proof is upon the taxpayer.

G. No request for waiver of penalty under subsection F. above may be granted unless written request for waiver is received by the Tax Collector within forty-five (45) days following the imposition of penalty. Any taxpayer aggrieved by the refusal to grant a waiver under subsection F. above may appeal under the provisions of Section 3-05-005-0570 provided that a petition of appeal or request for an extension is submitted to the Tax Collector within forty-five (45) days of the taxpayer's receipt of notice by the City that waiver has been denied.

H. For the purpose of this Section, "reasonable cause" shall mean that the taxpayer exercised ordinary business care and prudence, i.e., had a reasonable basis for believing that the tax did not apply to the business activity or the storage or use of the taxpayer's tangible personal property in this City.

I. For the purpose of this Section, "negligence" shall be characterized chiefly by inadvertence, thoughtlessness, inattention, or the like, rather than an "honest mistake". Examples of negligence include:

1. The taxpayer's failure to maintain records in accordance with Division 3-05-003 of this Chapter.

2. Repeated failures to timely file returns; or

3. Gross ignorance of the law.

(Ord. 1924, 01/07/97) (Revised, Ordinance No. 2006-19, 08/01/2006)

3-05-005-0541 ERRONEOUS ADVICE OR MISLEADING STATEMENTS BY THE TAX COLLECTOR; ABATEMENT OF PENALTIES AND INTEREST; DEFINITION

A. Notwithstanding Section 3-05-005-0540 A., no interest or penalty may be assessed on an amount assessed as a deficiency if either:

1. The deficiency assessed is directly attributable to erroneous written advice furnished to the taxpayer by an employee of the City acting in an official capacity in response to a specific request from the taxpayer and not from the taxpayer's failure to provide adequate or accurate information.

2. All of the following are true:

a. A tax return form prepared by the Tax Collector contains a statement that, if followed by a taxpayer, would cause the taxpayer to misapply this Chapter.

b. The taxpayer reasonably relies on the statement.

c. The taxpayer's underpayment directly results from this reliance.

B. Each employee of the Tax Collector, at the time any oral advice is given to any person, shall inform the person that the Tax Collector is not bound by such oral advice.

C. For purposes of this Section "tax return form" includes the instructions that the Tax Collector prepares for use with the tax return form.

(Ord. 1924, 01/07/97)

3-05-005-0542 PROSPECTIVE APPLICATION OF NEW LAW OR INTERPRETATION OR APPLICATION OF LAW

A. Unless expressly authorized by law, the tax collector shall not apply any newly enacted legislation retroactively or in a manner that will penalize a taxpayer for complying with prior law.

B. If the tax collector adopts a new interpretation or application of any provision of this chapter or determines that any provision applies to a new or additional category or type of business and the change in interpretation or application is not due to a change in the law:

(1) The change in interpretation or application applies prospectively only unless it is favorable to taxpayers.

(2) The tax collector shall not assess any tax, penalty or interest retroactively based on the change in interpretation or application.

C. For purposes of subsection Subsection B, "New Interpretation or Application" includes policies and procedures which differ from established interpretations of this chapter.

D. Reserved.

(Ord. No. 2004-25, Amended, 01/10/05); (Amended, Ordinance No. 2006-19, 08/01/2006)

3-05-005-0545 DEFICIENCIES; WHEN INACCURATE RETURN IS FILED; WHEN NO RETURN IS FILED; ESTIMATES~~:~~

A. If the taxpayer has failed to file a return, or if the Tax Collector is not satisfied with the return and payment of the amount of tax required, and additional taxes are determined by the Tax Collector to be due, the Tax Collector shall deliver written notice of his determination of a deficiency to the taxpayer, and such deficiency, plus penalties and interest, shall be due and payable forty-five (45) days after receipt of the notice and demand. Such additional taxes shall bear any applicable civil penalties and interest as provided in Section 3-05-005-0540, and every such notice of a determination of an additional amount due shall be assessed within the limitation period provided in Section 3-05-005-0550.

1. When a return is filed. If the Tax Collector is not satisfied with a return and payment of the amount of tax required by this Chapter to be paid to the City, he may examine the return or examine the records of the taxpayer, and redetermine the amount of tax, penalties, and interest required to be paid, for any periods available to the Tax Collector under Section 3-05-005-0550, based upon the information contained in the return or records or based upon any information within his possession or which comes into his possession.

2. When no return is filed. If any person fails to make a return, the Tax Collector may make an estimate of the amount of tax due under this Chapter and compute any applicable penalties and interest due, based upon any information within his possession or which comes into his possession.

B. Estimates by the Tax Collector. Any estimate made by the Tax Collector is to be made on a reasonable basis. The existence of another reasonable basis of estimation does not, in any way, invalidate the Tax Collector's estimate. It is the responsibility of the taxpayer to prove that the Tax Collector's estimate is not reasonable and correct, by providing sufficient documentation of the type and form required by this chapter or satisfactory to the Tax Collector.

(Ord. 1491, 06/16/1987)

3-05-005-0546 CLOSING AGREEMENTS IN CASES OF EXTENSIVE TAXPAYER MISUNDERSTANDING OR MISAPPLICATION; ~~CITY ATTORNEY~~ APPROVAL; RULES~~:~~

A. If the Tax Collector determines that noncompliance with tax obligations results from extensive misunderstanding or misapplication of provisions of this Chapter it may enter into closing agreements with those taxpayers under the following terms and conditions:

1. Extensive misunderstanding or misapplication of the tax laws occurs if the Tax Collector determines that more than sixty percent (60%) of the persons in the affected class have failed to properly account for their taxes owing to the same misunderstanding or misapplication of the tax laws.

2. The Tax Collector shall publicly declare the nature of the possible misapplication and the proposed definition of the class of affected taxpayers and shall conduct a public hearing to hear testimony regarding the extent of the misapplication and the definition of the affected class.

3. If, after the public hearing, the Tax Collector determines that a class of affected taxpayers has failed to comply with their tax obligations because of extensive misunderstanding or misapplication of the tax laws it shall issue a tax ruling announcing that finding and publish the ruling in a newspaper of general circulation in the City and through the next two model city tax code updates.

4. A closing agreement under this Section may abate some or all of the penalties, interest and tax that taxpayers have failed to remit, or the agreement may provide for the prospective treatment of the matter as to the class of affected taxpayers. All taxpayers in the class shall be offered the opportunity to enter into a similar agreement for the same tax periods.

5. Taxpayers in the affected class who have properly accounted for their tax obligations for these tax periods shall be offered the opportunity to enter into an equivalent closing agreement providing for a pro rata credit or refund of their taxes previously paid.

6. The closing agreement shall require the taxpayers to properly account for and pay such taxes in the future. If a taxpayer fails to adhere to such a requirement, the closing agreement is voidable by the Tax Collector and he may assess the taxpayer for the delinquent taxes. The Tax Collector may issue such a proposed assessment within six months after the date that he declares that closing agreement void or within the period prescribed by section 3-05-005-0550 of this Chapter.

B. Before entering into closing agreements pursuant to this Section, the Tax Collector shall secure such approval as required by charter, ordinance or administrative regulation.

C. After a closing agreement has been signed pursuant to this Section, it is final and conclusive except on a showing of fraud, malfeasance or misrepresentation of a material fact. The case shall not be reopened as to the matters agreed upon or the agreement shall not be modified by any officer, employee or agent of the City. The agreement or any determination, assessment, collection, payment abatement, refund or credit made pursuant to the agreement shall not be annulled, modified, set aside or disregarded in any suit, action or proceeding.

D. The Tax Collector shall report in writing its activities under this Section to the Mayor and City Council on or before February 1 of each year.

(Ord. 1924, 01/07/97)

3-05-005-0550 LIMITATION PERIODS:

A. Limitation when a return has been filed:

1. Except as provided elsewhere in this Section, the Tax Collector may assess additional tax due at any time within four (4) years after the date on which the return is required to be filed, or within four (4) years after the date on which the return is filed, whichever period expires later.

2. However, if a taxpayer does not report an amount properly reportable which is in excess of twenty-five percent (25%) of the taxable amount stated on the return, the Tax Collector may assess additional tax due at any time within six (6) years after the date on which the return was filed.

3. Any delay in commencement or completion of any examination by the Tax Collector, which is requested or agreed to in writing by the taxpayer, shall be excluded from the computation of any limitation period prescribed by this Section, and the Tax Collector shall be entitled to make a determination for taxes due without exclusion of any such time period, and any limitation period shall be extended for a length of time equivalent to the period of the agreed upon delay.

4. Any assessment of additional tax due by the Tax Collector shall be deemed to have been made by mailing a copy of a notice of audit assessment by certified mail to the taxpayer's address of record with the Tax Collector or by personal delivery of a copy of a notice of audit assessment to the taxpayer or his authorized agent.

B. Suspension of Limitation Period: The limitation period on assessment shall be suspended for any period:

1. The assets of the taxpayer are in the control or custody of the court in any proceeding before any court of jurisdiction within the United States of America, and for one hundred eighty (180) calendar days thereafter; or

2. Which the taxpayer and the Tax Collector agree upon in writing.

C. When No Return Filed; Fraudulent Return: In the case of a fraudulent return with the intent to evade tax, or the failure or refusal to file a return for any month, the Tax Collector may assess the amount of taxes payable for that month at any time, without any reliance by the taxpayer upon any time limitation provided elsewhere in this Chapter.

D. Special Provisions Relating to Owner-Builders: The limitation for an owner-builder subject to the tax as prescribed in Section 3-05-004-0417 shall be based upon the date such tax liability is reportable or was reported, as provided in Section 3-05-004-0417.

(Ord. 1924, 01/07/97)

3-05-005-0553 EXAMINATION OF TAXPAYER RECORDS; JOINT AUDITS

A. Waiver of joint audit. A taxpayer that does not authorize a joint audit to be conducted for a tax jurisdiction is subject to audit by that tax jurisdiction at any time subject to the limitation provisions provided in Section 03-05-005-0550.

B. Tax jurisdiction acceptance of joint audit. If the Arizona Department of Revenue intends to conduct an audit of a taxpayer, the cities or towns for whom a joint audit is being conducted may accept the audit by the Arizona Department of Revenue or may elect to have a representative participate, provided that no more than two city or town representatives in total may participate.

(1) If a city or town does not accept the audit as a joint audit, the city or town may not conduct an audit of the taxpayer for forty-two months from the close of the last tax period covered by the audit unless an exception applies to that taxpayer pursuant to A.R.S. Section 42-2059.

(2) If a joint audit is performed by a city or town, the Arizona Department of Revenue is not prohibited from conducting an audit that does not violate the provisions of A.R.S. Section 42-2059.

(Ord. No. 2004-25, Amended, 01/10/05)

3-05-005-0555 TAX COLLECTOR MAY EXAMINE BOOKS AND OTHER RECORDS; FAILURE TO PROVIDE RECORDS:

A. The Tax Collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the Tax Collector, might be liable for any tax under this Chapter, for any periods available to him under Section 3-05-005-0550.

B. In order to perform any examination authorized by this Chapter, the Tax Collector may issue an administrative request for the attendance of witnesses or for the production of documents, as provided by regulation.

C. If within sixty (60) days of receiving a written request for information in the possession of the taxpayer, the taxpayer fails or refuses to furnish the requested information the Tax Collector may, in addition to penalties prescribed under Section 3-05-005-0540, impose an additional penalty of twenty-five percent (25%) of the amount of any tax deficiency which is attributable to the information which the taxpayer failed to provide, unless the taxpayer shows that the failure is due to reasonable cause and not due to wilful neglect.

D. The Tax Collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. The Tax Collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.

E. The fact that the taxpayer has not maintained or provided such books and records which the Tax Collector considers necessary to determine the tax liability of any person does not preclude the Tax Collector from

making any assessment. In such cases, the Tax Collector is authorized to use estimates, projections, or samplings, to determine the correct tax. The provisions of Section 3-05-005-0545 B., concerning estimates, shall apply.

F. The Tax Collector shall give the taxpayer written notice of his determination of a deficiency by certified mail to the taxpayer's address of record with the Tax Collector, and the tax deficiency, plus interest and penalties, is final forty-five (45) days from the date of receipt of the notice by the taxpayer, unless an appeal is taken pursuant to the provisions of Section 3-05-005-0570 through 3-05-005-0575.

(Ord. 1924, 01/07/97)

3-05-005-0556 NO ADDITIONAL AUDITS OR PROPOSED ASSESSMENTS; EXCEPTIONS~~:~~

(a) Once the Tax Collector completes an examination authorized by Section ~~3-5-555~~ 3-05-005-555 and a written notice of the determination of a deficiency has been issued to the taxpayer pursuant to Section ~~3-5-545(a) or 3-5-555(f)~~ 3-05-005-0545(A) OR 3-05-005-0555(F), the taxpayer's liability for the time period subjected to the examination is fixed and determined, and no additional audit or examination may be conducted by the Tax Collector with respect to such time period except under the following circumstances.

(1) if a taxpayer files a claim for refund under Section ~~3-5-560~~ 3-05-005-0560, the Tax Collector may conduct an examination limited to the issues presented in the refund claim.

(2) if the taxpayer failed to disclose material information during the initial examination, falsified books or records, or otherwise engaged in conduct which prevented the Tax Collector from conducting an accurate examination. The applicability of this subsection, and the Tax Collector's right to proceed thereunder, may be raised and contested by the taxpayer in a subsequent administrative review brought pursuant to Section ~~3-5-570~~ 3-05-005-0570.

(b) An audit or examination conducted by any other taxing jurisdiction will not preclude the Tax Collector from conducting an audit or examination for the same time period.

(c) If the Tax Collector issues a notice of deficiency pursuant to either Section ~~3-5-545(a)~~ 3-05-005-0545(A) or Section ~~3-5-555(f)~~ 3-05-005-0555(F), the Tax Collector may not increase the proposed deficiency except in one or more of the following circumstances:

(1) the taxpayer made a material misrepresentation of fact.

(2) the taxpayer failed to disclose a material fact.

(3) the Tax Collector submitted a written request for information prior to issuance of the assessment, and the taxpayer, despite possessing or having access to such information, failed to provide it within 60 days as required by Section ~~3-5-555(c)~~ 3-05-005-0555(C).

(4) after issuing the notice of determination of deficiency but before the deficiency became final, the Arizona Tax Court, Court of Appeals or Supreme Court issued a decision, the applicability of which causes the deficiency initially proposed to increase.

(Ord. 1924, 01/07/97; Ord. 1979, 10/06/98); (Ord. No. 1979, Amended, 10/06/98)

3-05-005-0560 ERRONEOUS PAYMENT OF TAX; CREDITS AND REFUNDS; LIMITATIONS

A. The Tax Collector may authorize either credits or payments of refunds for any taxes, penalties or interest paid in excess of the amount actually due. Any credit authorized by the Tax Collector shall be cancelled from the accounts of the City if no timely filed request for credit or refund is made by the claimant claiming same within one (1) year following the date of determination and notice by the Tax Collector of the excess payment. For purposes of this section, "claimant" means a taxpayer that has paid a tax imposed under this ~~article~~ DIVISION and has submitted a credit or refund claim under this Section. Except where the taxpayer has granted a customer a power of attorney to pursue a credit or refund claim on the taxpayer's behalf, claimant does not include any customer of such taxpayer, whether or not the claimant collected the tax from customers by separately stated itemization.

B. No credit shall be allowed or refund paid except under one of the following conditions:

1. As provided in Section 3-05-005-0565.

2. Upon examination of filed returns for any period not excluded by Section 3-05-005-0550, and not to exceed the tax, penalty, or interest actually paid with such returns.

3. Upon audit or other examination of the books and records of the taxpayer, but only for periods as provided in Section 3-05-005-0550. In the case of an examination performed at the taxpayer's request, credit shall be allowed or refund paid only for any excess taxes, penalties, or interest taxes actually paid within the limitation period provided in Section 3-05-005-0550, such period to be calculated from the date of receipt of the taxpayer's request by the Tax Collector. Requests by taxpayers for audits to

authorize credits shall be honored unless, in the opinion of the Tax Collector, the taxpayer has made excessive requests for audits.

4. Upon the claimant's submission of a written claim for credit or refund of any taxes, penalties, or interest paid to the City by the claimant.

C. A credit or refund claim submitted by a claimant pursuant to subsection ~~(b)(4)~~ B.4. of this section must:

1. Identify the name, address and city tax identification number of the taxpayer; and

2. Identify the dollar amount of the credit or refund requested; and

3. Identify the specific tax period involved; and

4. Identify the specific grounds upon which the claim is based.

D. When a written claim for credit or refund is submitted pursuant to subsection ~~(b)(4)~~ B.4. of this section, no credit shall be allowed or refund paid except for those taxes, penalties, or interest paid in excess of the amount due within the limitation period provided in Section ~~3-5-550~~ 3-05-005-0550. The credit or refund limitation period shall be calculated from the date the Tax Collector receives the claimant's written claim meeting the requirements of subsection ~~(c)~~ C of this Section.

E. The following additional requirements apply to the Tax Collector and the claimant for claims for credit or refund submitted pursuant to subsection ~~(b)(4)~~ B.4. of this Section:

1. The Tax Collector shall notify the claimant that the claim for credit or refund has been received and shall indicate whether the claim meets the requirements of subsection ~~(c)~~ C of this Section. If the claim does not meet the requirements of subsection ~~(c)~~ C of this Section, the Tax Collector shall identify the deficiency in writing. Any claim that does not meet the requirements of subsection ~~(c)~~ C of this Section shall not secure the limitation period pursuant to Section ~~3-5-550~~ 3-05-005-0550.

2. The Tax Collector may request, in writing, additional information or documentation from the claimant to support the requested credit or refund. Such information or documentation must be reasonably related to the claim and required to be maintained under this Chapter in the normal course of business.

a. The claimant may request in writing one or more extensions to supply the requested information or documentation. The Tax Collector may reject an extension request only by denying the claim in whole or in part, subject to appeal by the claimant pursuant to Section ~~3-5-570~~ 3-05-005-0570.

b. A claimant aggrieved by a request for information or documentation under this subsection may file an appeal in the manner provided for in Section ~~3-5-570~~ 3-05-005-0570 regarding the scope of the request for information or documentation. Such petition must be filed no later than the last day by which requested information or documentation must be provided to the Tax Collector, including any extensions. The decision of the Hearing Officer regarding a request for information or documentation may not be appealed by either party until the claim has been approved or denied, in whole or in part, under subsection ~~(h)~~ H of this Section or through subsubsections ~~(e)(3)~~ E.3. or ~~(e)(4)~~ E.4. of this Section. A claimant shall not be barred from raising the issue of the reasonableness of the Tax Collector's information or documentation request in an appeal filed under subsection ~~(h)~~ H of this Section or through subsubsections ~~(e)(3)~~ E.3. or ~~(e)(4)~~ E.4. of this Section through a lack of filing a petition under this subsubsection.

3. If the Tax Collector fails to request additional information or documentation pursuant to this Section and fails to issue a determination on any claim for credit or refund within six (6) months after the claim is filed, the claimant may consider the claim denied and may file an appeal pursuant to Section ~~3-5-570~~ 3-05-005-0570.

4. If the Tax Collector fails to issue a determination within six (6) months of receiving all requested additional information or documentation, the claimant may consider the claim for credit or refund denied and may file an appeal pursuant to Section ~~3-5-570~~ 3-05-005-0570.

5. The burden of proof to show that a notice, request, determination or other communication was received by the Claimant in this Section is on the Tax Collector, and will be satisfied by receipt of notice. The burden of proof to show that a claim or additional information or documentation was received by the Tax Collector is on the claimant and will be satisfied by receipt of notice.

F. Interest shall be allowed on the overpayment of tax for any credit or refund authorized pursuant to ~~subsections (b)(3) or (b)(4) of~~ this Section at the rate and in the manner set forth in Section ~~3-5-540(a) as follows:~~ 3-05-005-0540(A). INTEREST SHALL BE CALCULATED FROM THE DATE THE TAX COLLECTOR

RECEIVES THE CLAIMANT'S WRITTEN CLAIM MEETING THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION.

~~1. For credits or refunds authorized pursuant to subsection (b)(3) of this Section, interest shall be calculated from the date the Tax Collector receives the claimant's written claim following the date of notice to the claimant authorizing the credit or refund.~~

~~2. For credits or refunds authorized pursuant to subsection (b)(4) of this Section, interest shall be calculated from the date the Tax Collector receives the claimant's written claim meeting the requirements of subsection (c) of this Section.~~

G. The Tax Collector shall give the claimant a written notice of determination for a claim made under subsection ~~(b)~~ B of this Section. If the determination is a denial of a claim, in whole or in part, the determination must state that the claim for credit or refund has been denied in whole or in part, with the reason for denial, and must include the claimant's rights of appeal pursuant to Section ~~3-5-570~~ 3-05-005-0570.

H. A determination by the Tax Collector under this section, whether an approval of a claim or a denial of a claim, in whole or in part, shall become final forty-five (45) days from the date of receipt of the notice by the claimant, unless an appeal is made pursuant to Section 3-05-005-0570. If the claimant is the prevailing party in an appeal of a determination under this section, Section 3-05-005-0578 shall apply, except that reasonable fees and other costs may be awarded either by the Hearing Officer or court and are not subject to the monetary limitations of ~~Section~~ SUBSECTION 3-05-005-0578(E) if the Tax Collector's position was not substantially justified or was brought for the purpose of harassing the claimant, frustrating the credit or refund process or delaying the credit or refund. For the purposes of this section, "reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, not to exceed the amounts actually paid for expert witnesses, the cost of any study, analysis, report, test, project or computer program that is found to be necessary to prepare the claimant's case and necessary fees for attorneys or other representatives.

I. The amendments to this section as enacted in Ordinance No. 2006-19 shall be effective as follows:

1. For any claim for refund or credit received by the Tax Collector before October 1, 2005,

a. The provisions of this section as it existed prior to the adoption of Ordinance No. 2006-19 shall apply, except that interest shall be allowed from and after October 1, 2005 as provided in subsection ~~(~~F~~)~~ of this section as enacted by Ordinance No. 2006-19.

b. Except as noted in subsection ~~(I)(1)(a) of this section~~ I.1.A. ABOVE, the amendments to this section as enacted in Ordinance No. 2006-19 shall not be cited or considered in the construction or the interpretation of the City tax refund or credit provisions, interest provisions, or appeal provisions in effect prior to October 1, 2005.

2. The provisions of this section enacted by Ordinance No. 2006-19 shall apply to all claims for refund or credit, for any periods as determined by subsection ~~(~~D~~)~~ or ~~(~~E~~)~~ of this section, received by the Tax Collector from and after October 1, 2005, except for claims that, in whole or in part, had been received by the Tax Collector prior to October 1, 2005.

J. Any refund paid under the provisions of this section shall be paid from the Privilege Tax revenue accounts.

(Ord. 1924, 01/07/1997; Ord. 2006-18, Amended, 08/01/2006)

3-05-005-0565 PAYMENT OF TAX BY THE INCORRECT TAXPAYER OR TO THE INCORRECT ARIZONA CITY OR TOWN~~:~~

A. When it is determined that taxes have been reported and paid to the City by the wrong taxpayer, any taxes erroneously paid shall be transferred by the City to the privilege tax account of the person who actually owes and should have paid such taxes; provided, that the City receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax.

B. An assignment and waiver provided under this section must:

1. Identify the name and City privilege license number of the person who erroneously paid the tax and the person who should have paid the tax.

2. Provide that the person who erroneously paid the tax waives any right such person may have to a refund of the taxes erroneously paid.

3. Authorize the City Treasurer to transfer the erroneously paid tax to the privilege tax account of the person who should have paid the tax.

C. When it is determined that taxes have been reported and paid to the wrong Arizona city or town, such taxes shall be remitted to the correct city or town, provided that the city or town to whom the taxes were erroneously paid receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax. Where the person who actually paid the tax and the person who

should have paid the tax are one and the same, no assignment and waiver need be provided. The City shall neither pay nor charge any interest or penalty on any overpayment or underpayment except such interest and penalty actually paid by the taxpayer relating to such tax.

D. This section in no way limits or restricts the applicability of any remedies which may otherwise be available under A.R.S. Section 42-6003. The limitations and procedures set forth in A.R.S. Section 42-6003 shall apply to all payments under this section.

E. When reference is made in this section to this City or an Arizona city or town, and payments made to or requested from this City or an Arizona city or town, the provisions shall be applicable to the Arizona Department of Revenue when it is acting for or on behalf of this City or an Arizona city or town.

(Ord. 1924, 01/07/1997; Ord. 2007-28, Amended, 05/01/2007)

3-05-005-0567 RESERVED~~:~~

3-05-005-0570 ADMINISTRATIVE REVIEW; PETITION FOR HEARING OR FOR REDETERMINATION; FINALITY OF ORDER

For the purposes of this section, "Municipal Tax Hearing Office" means the administrative offices of the Municipal Tax Hearing Officer.

A. Informal Conference. A taxpayer shall have the right to discuss any proposed assessment with the auditor prior to the issuance of any assessment, but any such informal conference is not required for the taxpayer to file a petition for administrative review.

B. Administrative Review.

1. Filing a Petition. Other than in the case of a jeopardy assessment, a taxpayer may contest the applicability or amount of any tax, penalty, or interest imposed upon or paid by him pursuant to this chapter by filing a petition for a hearing or for redetermination with the Tax Collector as set forth below:

a. Within forty-five (45) days of receipt by the taxpayer of notice of a determination by the Tax Collector that a tax, penalty, or interest amount is due, or that a request for refund or credit has been denied; or

b. By voluntary payment of any contested amount when accompanied by a timely filed return and a petition requesting a refund of the protested portion of said payment; or

c. By petition accompanying a timely filed return contesting an amount reported but not paid; or

d. By petition requesting review of denial of waiver of penalty as provided in Section 3-05-005-0540(G).

2. Extension to file a petition. In all cases, the taxpayer may request an extension from the Tax Collector. Such request must be in writing, state the reasons for the requested delay and must be filed with the Tax Collector within the period allowed above for originally filing a petition. The Tax Collector shall allow a forty-five (45) day extension to file a petition, when such written request has been properly and timely made by the taxpayer The Tax Collector may grant an additional extension and may determine the corresponding time of any such extension at his sole discretion.

3. Requirements for petition.

a. The petition shall be in writing and shall set forth the reasons why any correction, abatement, or refund should be granted, and the amount of reduction or refund requested. The petition may be amended at any time prior to the time the taxpayer rests his case at the hearing or such time as the Hearing Officer allows for submitting of amendments in cases of redeterminations without hearings. The Hearing Officer may require that amendments be in writing, and in that case, he shall provide a reasonable period of time to file the amendment. The Hearing Officer shall provide a reasonable period of time for the Tax Collector to review and respond to the petition and to any written amendments.

b. The taxpayer, as part of the petition, may request a hearing which shall be granted by the Hearing Officer. If no request for hearing is made the petition shall be considered to be submitted for decision by the Hearing Officer on the matters contained in the petition and in any reply made by the Tax Collector.

~~d~~C. The provisions of this section are exclusive, and no petition seeking any correction, abatement, or refund shall be considered unless the petition is timely and properly filed under this Section.

4. Transmittal to Hearing Officer. The city/TOWN shall designate a Hearing Officer, who may be other than an employee of the City. The Tax Collector, if designated to receive petitions, shall forward any petition to the Municipal Tax Hearing ~~Office (MTHO)~~ OFFICER within twenty (20) days after receipt,

accompanied by documentation as to timeliness. In cases where the Hearing Officer determines that the petition is not timely or not in proper form, he shall notify both the taxpayer and the Tax Collector; and in cases of petitions not in proper form only, the Hearing Officer shall provide the taxpayer with an extension up to forty-five (45) days to correct the petition.

5. Hearings shall be conducted by a Hearing Officer and shall be continuous until the Hearing Officer closes the record. The taxpayer may be heard in person or by his authorized representative at such hearing. Hearings shall be conducted informally as to the order of proceeding and presentation of evidence. The Hearing Officer shall admit evidence over hearsay objections where the offered evidence has substantial probative value and reliability. Further, copies of records and documents prepared in the ordinary course of business may be admitted, without objection as to foundation, but subject to argument as to weight, admissibility, and authenticity. Summary accounting records may be admitted subject to satisfactory proof of the reliability of the summaries. In all cases, the decision of the Hearing Officer shall be made solely upon substantial and reliable evidence. All expenses incurred in the hearing shall be paid by the party incurring the same.

6. Redeterminations upon a "petition for redetermination" shall follow the same conditions, except that no oral hearing shall be held.

7. Hearing Ruling. In either case, the Hearing Officer shall issue his ruling not later than forty-five (45) days after the close of the record by the Hearing Officer.

8. Notice of Refund or Adjusted Assessment. Within sixty (60) days of the issuance of the Hearing Officer’s decision, the Tax Collector shall issue to the taxpayer either a notice of refund or an adjusted assessment recalculated to conform to the Hearing Officer’s decision.

C. Stipulations that future tax is also protested. A taxpayer may enter into a stipulation with the Tax Collector that future taxes of similar nature are also at issue in any protest or appeal. However, unless such stipulation is made, it is presumed that the protest or appeal deals solely and exclusively with the tax specifically protested and no other. When a taxpayer enters into such a stipulation with the Tax Collector that future taxes of similar nature will be included in any redetermination, hearing, or court case, it is the burden of that taxpayer to identify, segregate, and keep record of such income or protested taxable amount in his books and records in the same manner as the taxpayer is required to segregate exempt income.

D. When an assessment is final.

1. If a request for administrative review and petition for hearing or redetermination of an assessment made by the Tax Collector is not filed within the period required by subsection (b) above, such person shall be deemed to have waived and abandoned the right to question the amount determined to be due and any tax, interest, or penalty determined to be due shall be final as provided in subsections ~~3-5-545(a) and 3-5-555(f)~~ 3-05-005-0545(A) AND 3-05-05-0555(F).

2. The decision made by the Hearing Officer upon administrative review by hearing or redetermination shall become final thirty (30) days after the taxpayer receives the notice of refund or adjusted assessment required by subsection (b)(8) above, unless the taxpayer appeals the order or decision in the manner provided in Section ~~3-5-575~~ 3-05-005-0575.

~~E. Reserved~~

E. TAXPAYERS SHALL BE SUBJECT TO THE STATE TAXPAYER BILL OF RIGHTS (A.R.S. SECTION 42-2051 ET. SEQ).

(Ord. 1924, 01/07/97; Ord. 1979, 10/06/98); (Ord. No. 1979, Amended, 10/06/98) (Ord. 2000-29, Amended, 11/21/00) (Ord. 2001-04, Amended, 01/16/2001; Ord. 2000-29, Amended, 11/21/2000; Ord. 2008, Amended, 11/02/1999); (Ord. No. 2004-25, Amended, 01/10/05; Ord. 2009-16, Amended, 06/16/09)

3-05-005-0571 JEOPARDY ASSESSMENTS (REG. 571.1)

SEE ALSO REGULATION 3-5-571.1.

A. If the Tax Collector believes that the collection of any assessment or deficiency of any amounts imposed by this Chapter will be jeopardized by delay, he shall deliver to the taxpayer a notice of such finding and demand immediate payment of the tax or deficiency declared to be in jeopardy, including interest, penalties, and additions.

B. Jeopardy assessments are immediately due and payable, and the Tax Collector may immediately begin proceedings for collection. The taxpayer, however, may stay collection by filing, within ten (10) days after receipt of notice of jeopardy assessment, or within such additional time as the Tax Collector may allow, by bond or collateral in favor of the City in the amount Tax Collector declared to be in jeopardy in his notice.

C. "Bond or Collateral", as required by this Section,

1. Shall mean either:

a. A bond issued in favor of the City by a surety company authorized to transact business in this State and approved by the Director of Insurance as to solvency and responsibility, or

b. Collateral composed of securities or cash which are deposited with, and kept in the custody of, the Tax Collector.

2. Shall be of such form that it may, at any time without notice, be applied to any tax, penalties, or interest due and payable for the purposes of this Chapter. Securities held as collateral by the Tax Collector must be of a nature that they may be sold at public or private sale without notice to the taxpayer.

D. If bond or collateral is not filed within the period prescribed by subsection B. above, the tax collector may treat the assessment as final for purposes of any collection proceedings. The taxpayer nevertheless shall be afforded the appeal rights provided in Sections 3-05-005-0570 and 3-05-005-0575. The filing of a petition by the taxpayer under Section 3-05-005-0570, however, shall not stay the tax collector's rights to pursue any collection proceedings.

E. If the taxpayer timely files sufficient bond or collateral, the jeopardy requirements are deemed satisfied, and the taxpayer may avail himself of the provisions of Section 3-05-005-0570, including requests for additional time to file a petition.

(Ord. 1593, 12/06/88)

3-05-005-0572 EXPEDITED REVIEW OF JEOPARDY ASSESSMENTS:

A. Within thirty (30) days after the day on which the Tax Collector furnishes the written notice required by Section 3-05-005-0571 A., the taxpayer, pursuant to Section 3-05-005-0570, may request the Tax Collector to review the action taken. Within fifteen (15) days after the request for review, the Tax Collector shall determine whether both the jeopardy determination and the amount assessed are reasonable.

B. Within thirty (30) days after the Tax Collector notifies the taxpayer of the determination he reached pursuant to subsection A. above, the taxpayer may bring a civil action in the appropriate court. If the taxpayer so requests, the City shall stipulate to an accelerated and expedited resolution of the civil action. If the court determines that either the jeopardy determination or the amount assessed is unreasonable, the court may order the Tax Collector to abate the assessment, to redetermine any part of the amount assessed or to take such other action as the court finds to be appropriate. A determination made by the court under this subsection is final except as provided in Arizona Revised Statutes Section 12-170.

(Ord. 1924, 01/07/97)

3-05-005-0575 JUDICIAL REVIEW~~:~~

(a) A taxpayer may seek judicial review of all or any part of a Hearing Officer's decision by initiating an action against the City in the appropriate court of this County. A taxpayer is not required to pay any tax, penalty, or interest upheld by the Hearing Officer before seeking such judicial review.

(b) The Tax Collector may seek judicial review of all or any part of a Hearing Officer's decision by initiating an action in the appropriate court of this County.

(c) An action for judicial review cannot be commenced by either the taxpayer or the Tax Collector more than thirty (30) days after receipt by the taxpayer of notice of any refund or assessment recalculated or reduced to conform to the Hearing Officer's decision, unless the time to commence such an action is extended in writing signed by both the taxpayer and the Tax Collector. Failure to bring the action within thirty (30) days or such other time as is agreed upon in writing shall constitute a waiver of any right to judicial review, except as provided in subsection ~~F.~~ G below.

(d) The court shall hear and determine the appeal as a trial de novo; however, the Tax Collector cannot raise in the court any grounds or basis for the assessment not asserted before the Hearing Officer. Nothing in this subsection, however, shall preclude the Tax Collector from responding to any arguments which are raised by the taxpayer in the appeal.

(e) The City has the burden of proof by a preponderance of the evidence in any court proceeding regarding any factual issue relevant to ascertaining the tax liability of a taxpayer. This subsection does not abrogate any requirements of this chapter that requires a taxpayer to substantiate an item of gross income, exclusion, exemption, deduction, or credit. This subsection applies to a factual issue if a preponderance of the evidence demonstrates that:

(1) The taxpayer asserts a reasonable dispute regarding the issue.

(2) The taxpayer has fully cooperated with the Tax Collector regarding the issue, including providing within a reasonable period of time, access to and inspection of all witnesses, information and documents within the taxpayer's control, as reasonable requested by the Tax Collector.

(3) The taxpayer has kept and maintained records as required by the City.

(f) The issuance of an adjusted or corrected assessment or notice of refund due to the taxpayer, where made by the Tax Collector pursuant to the decision of the Hearing Officer, shall not be deemed an acquiescence by the City or the Tax Collector in said decision, nor shall it constitute a bar or estoppel to the institution of an action or counterclaim by the City to recover any amounts claimed to be due to it by virtue of the original assessment.

(g) After the initiation of any action in the appropriate court by either party, the opposite party may file such counterclaim as would be allowed pursuant to the Arizona Rules of Civil Procedure.

(Ord. 1924, 01/07/97)

(Ord. 2008, Amended, 11/02/1999)

3-05-005-0577 REFUNDS OF TAXES PAID UNDER PROTEST:

In the event the Hearing Officer's decision or a final judgment by the court is rendered in favor of the taxpayer to recover protested taxes, it shall be the duty of the Tax Collector, upon receipt of such decision or of a certified copy of such final judgment, to authorize a warrant in favor of the taxpayer in an amount equal to the amount of the tax found by such decision or by the final judgment to have been paid under protest, and such warrant shall include the amount of interest or other cost that may have been recovered against the city by the final judgment in such action in the courts, to be paid from the privilege tax revenue accounts.

3-05-005-0578 REIMBURSEMENT OF FEES AND OTHER COSTS; DEFINITIONS:

A. A taxpayer who is a prevailing party may be reimbursed for reasonable fees and other costs related to any administrative proceeding brought by the taxpayer pursuant to Section 3-05-005-0570 B. For purposes of this Section, a taxpayer is considered to be the prevailing party only if both of the following are true:

1. The Tax Collector's position was not substantially justified.

2. The taxpayer prevails as to the most significant issue or set of issues.

B. Reimbursement under this Section may be denied if any of the following circumstances apply:

1. During the course of the proceeding the taxpayer unduly and unreasonably protracted the final resolution of the matter.

2. The reason that the taxpayer prevailed is due to an intervening change in the applicable law.

C. The taxpayer shall present an itemization of the reasonable fees and other costs to the Taxpayer Problem Resolution Officer within thirty (30) days after receipt by the taxpayer of a notice of refund or recalculated assessment issued by the Tax Collector pursuant to Section 3-05-005-0570 B.8. The Taxpayer Problem Resolution Officer shall determine the validity of the fees and other costs within thirty (30) days after receiving the itemization. The Taxpayer Problem Resolution Officer's decision is considered a final decision. Either the taxpayer or the Tax Collector may seek judicial review of the Taxpayer Problem Resolution Officer's decision. An action for judicial review, however, shall not be commenced more than thirty (30) days after receipt of the resolution officer's decision.

D. In the event judicial review is not sought pursuant to subsection C. above, the City shall pay the fees and other costs awarded as provided in this Section within thirty days after demand by a person who has received an award pursuant to this Section.

E. Reimbursement to a taxpayer under this Section shall not exceed twenty thousand dollars or actual monies spent, whichever is less. The reimbursable attorney or representative fees shall not exceed one hundred dollars per hour or actual monies spent, whichever is less, unless the Taxpayer Problem Resolution Officer determines that an increase in the cost of living or a special factor such as the limited availability of qualified attorneys or representatives for the proceeding involved justifies a higher fee.

F. For purposes of this Section "reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, but not exceeding the amounts actually spent for expert witnesses, the cost of any study, analysis, report, test or project that is found to be necessary to prepare the party's case and necessary fees for attorneys or other representatives.

(Ord. 1924, 01/07/97)

3-05-005-0580 CRIMINAL PENALTIES.

A. It is unlawful for any person to knowingly or wilfully:

1. Fail or refuse to make any return required by this chapter.

2. Fail to remit as and when due the full amount of any tax or additional tax or penalty and interest thereon.

3. Make or cause to be made a false or fraudulent return.

4. Make or cause to be made a false or fraudulent statement in a return, in written support of a return, or to demonstrate or support entitlement to a deduction, exclusion, or credit or to entitle the person to an allocation or apportionment or receipts subject to tax.

5. Fail or refuse to permit any lawful examination of any book, account, record, or other memorandum by the Tax Collector.

6. Fail or refuse to remit any tax collected by such person from his customer to the Tax Collector before the delinquency date next following such collection.

7. Advertise or hold out to the public in any manner, directly or indirectly, that any tax imposed by this chapter, as provided in this chapter, is not considered as an element in the price to the consumer.

8. Fail or refuse to obtain a privilege license or to aid or abet another in any attempt to intentionally refuse to obtain such a license or evade the license fee.

9. Reproduce, forge, falsify, fraudulently obtain or secure, or aid or abet another in any attempt to reproduce, forge, falsify, or fraudulently obtain or secure, an exemption from taxes imposed by this chapter.

B. The violation of any provision of subsection ~~(A) of this section~~ A ABOVE shall constitute a class one misdemeanor.

C. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury and on conviction thereof shall be punished in the manner provided by law.

(Ord. 2013-26, Amended, 01/07/2014)

3-05-005-0590 CIVIL ACTIONS~~:~~

A. Liens:

1. Any tax, penalty, or interest imposed under this Chapter which has become final, as provided in this Chapter, shall become a lien when the City perfects a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty, and interest, the period or periods for which the same is due, and the date of accrual thereof, the amount of the recording costs by the County

Recorder in any county in which the taxpayer owns real property and the documentation and lien processing fees imposed by the City Council and further stating that the City claims a lien therefor.

2. The notice of claim of lien shall be signed by the ~~Administrative Services Director~~ CITY TREASURER under his official seal or the official seal of the City, and, with respect to real property, shall be recorded in the office of the County Recorder of any county in which the taxpayer owns real property, and, with respect to personal property shall be filed in the office of the Secretary of State. After the notice and claim of lien is recorded or filed, the taxes, penalties, interest and recording costs and lien processing fees referred to above in the amounts specified therein shall be a lien on all real property of the taxpayer located in such county where recorded, and all tangible personal property of the taxpayer within the State, superior to all other liens and assessments recorded or filed subsequent to the recording or filing of the notice and claim of lien.

3. Every tax and any increases, interest, penalties, and recording costs and lien processing fees referred to above, shall become from the time the same is due and payable a personal debt from the person liable to the City, but shall be payable to and recoverable by the Tax Collector and which may be collected in the manner set forth in subsection B. below.

4. Any lien perfected pursuant to this Section shall, upon payment of the taxes, penalties, and interest, recording costs and lien processing fees referred to above and lien release fees imposed by the County Recorder in any county in which the lien was recorded, thereby, be released by the Tax Collector in the same manner as mortgages and judgments are released. The Tax Collector may, at his sole discretion, release a lien in part, that is, against only specified property, for partial payment of moneys due the City.

B. Actions to Recover Tax: An action may be brought by the City Attorney or other legal advisor to the City designated by the City Council, at the request of the Tax Collector, in the name of the City, to recover the amount of any taxes, penalties, interest, recording costs, lien processing fees and lien release fees due under this Chapter; provided that:

1. No action or proceeding may be taken or commenced to collect any taxes levied by this Chapter until the amount thereof has been established by assessment, correction, or reassessment; and

2. Such collection effort is made or the proceedings begun:

a. Within six (6) years after the assessment of the tax; or

b. Prior to the expiration of any period of collection agreed upon in writing by the Tax Collector and the taxpayer before the expiration of such six (6) year period, or any extensions thereof; or

c. At any time for the collection of tax arising by reason of a tax lien perfected, recorded, or possessed by the City under this Section.

(Ord. 1851, 01/03/95)

3-05-005-0595 COLLECTION OF TAXES WHEN THERE IS SUCCESSION IN AND/OR CESSATION OF BUSINESS:

A. In addition to any remedy provided elsewhere in this City Code that may apply, the Tax Collector may apply the provisions of subsections B through D below concerning the collection of taxes when there is succession in and/or cessation of business.

B. The taxes imposed by this chapter are a lien on the property of any person subject to this chapter who sells his business or stock of goods, or quits his business, if the person fails to make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.

C. Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the privilege tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner-builder, as provided in Sections 3-05-004-0416 and 3-05-004-0417.

(1) any person who is a creditor or an affiliate of creditor, who acquires improved real property directly or indirectly from the creditor's debtor by any means set forth in this subsection, shall pay the tax based on the amount received by the creditor or its affiliate in a subsequent sale of such improved real property to a party unrelated to the creditor, regardless of when such subsequent sale takes place. Such tax shall be due in the month following the month in which the sale of the improved real property by the creditor or its affiliate occurs. Notwithstanding the foregoing, if the real property meets the definition of partially improved residential real property in Section 3-05-004-0416(a)(4) and all of the requirements of Section 3-05-004-0416(b)(4) are met by the parties to the subsequent sale transaction, then the tax shall not apply to the subsequent sale.

(2) In the event a creditor or its affiliate uses the acquired improved real property for any business purpose, other than operating the property in the manner in which it was operated, or was intended to

be operated, before the acquisition or in any other manner unrelated to selling the property, the tax shall be due. The gross income upon which the tax shall be determined pursuant to Sections 3-05-004-0416 and 3-05-004-0417 shall be the fair market value of the improved real property as of the date of acquisition. The tax shall be due in the month following the month in which such first business use occurs. When applicable, the credit bid shall be deemed to be the fair market value of the property as of the date of acquisition.

(3) Once the subsequent sale by the creditor or its affiliate has occurred and the creditor or its affiliate has paid the tax due from it pursuant to this subsection, neither the creditor nor its affiliate, nor any future owner, shall be liable for any outstanding tax, penalties or interest that may continue to be due from the debtor based on the transfer from the debtor to the creditor or its affiliate.

(4) If the tax liability imposed by either Section 3-05-004-0416 or Section 3-05-004-0417 on the transfer of the improved real property to the creditor or its affiliate, or any part thereof, is paid to the tax collector by the debtor subsequent to payment of the tax by the creditor or its affiliate, the amount so paid may constitute a credit, as equitably determined by the tax collector in good faith, against the tax imposed on the creditor or its affiliate by either paragraph 1 or paragraph 2 of this subsection.

(5) Notwithstanding anything in this chapter to the contrary, if a creditor or its affiliate is subject to tax as described in paragraph 1 or paragraph 2 of this subsection and such creditor or affiliate has not previously been required to be licensed, such creditor or affiliate shall become licensed no later than the date on which the tax is due.

(Ord. 2011-21, Amended, 10/18/2011)

D. A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all City tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The tax collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.

1. If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.

2. If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.

(Ord. 1593, 12/06/88)

(Ord. 2011-21, Amended, 10/18/2011)

3-05-005-0596 AGREEMENT FOR INSTALLMENT PAYMENTS OF TAX

A. The City may enter into an agreement with a taxpayer to allow the taxpayer to satisfy a liability for any tax imposed by this Chapter by means of installment payments. The Tax Collector may require a taxpayer who requests an installment payment agreement to complete a financial report in such form and manner as the Tax Collector may prescribe.

B. The Tax Collector, without notice, may alter, modify or terminate an installment payment agreement if the taxpayer:

1. Fails to pay an installment at the time the installment payment is due under the agreement.

2. Fails to pay any other tax liability at the time the liability is due.

3. Fails to file any tax report or return at the time the report or return is due.

4. Fails to furnish any information requested by the Tax Collector within thirty days after receiving a written request for such information.

5. Fails to notify the Tax Collector of a material improvement in the taxpayer's financial condition above the income previously reported in the most recent income statement within thirty days after the material improvement.

6. Provides inaccurate, false or incomplete information to the Tax Collector.

C. Notwithstanding any installment payment agreement, the Tax Collector may offset any tax refunds against the liabilities provided for in the installment payment agreement, may file and perfect any tax liens and, in the event the taxpayer breaches any term or provision of the installment payment agreement, may engage in collection activities.

D. The Tax Collector, without notice, may terminate an installment payment agreement if the Tax Collector believes that the collection of tax to which the payment agreement pertains is in jeopardy.

E. If the Tax Collector determines that the financial condition of a taxpayer has improved, the Tax Collector may alter, modify or terminate the agreement by providing notice to the taxpayer at least thirty days before the effective date of the action. The notice shall include the reasons why the tax collector believes the alteration, modification or termination is appropriate.

F. An installment payment agreement shall remain in effect for the term of the agreement except as otherwise provided in this Section.

G. A taxpayer who is aggrieved by a decision of the Tax Collector to refuse to enter into an installment payment agreement or to alter, modify or terminate an agreement entered into pursuant to this Section may petition the Taxpayer Problem Resolution Officer to review that determination. The taxpayer problem resolution officer may stay such alteration, modification or termination pending its review and may modify or nullify the determination.

H. The City and the taxpayer may modify any installment payment agreement at any time by entering into a new or modified agreement.

(Ord. 1924, 01/07/97)

3-05-005-0597 PRIVATE TAXPAYER RULINGS; REQUEST; REVOCATION OR MODIFICATION; DEFINITION~~:~~

A. The Tax Collector shall issue private taxpayer rulings to taxpayers and potential taxpayers on request. Each request shall be in writing and shall:

1. State the name, address and, if applicable, taxpayer identifying number of the taxpayer or potential taxpayer who requests the ruling.

2. Describe all facts that are relevant to the requested ruling.

3. State whether, to the best knowledge of the taxpayer or potential taxpayer, the issue or related issues are being considered by the Tax Collector or any other taxing jurisdiction in connection with an active audit, protest or appeal that involves the taxpayer or potential taxpayer and whether the same request has been or is being submitted to another taxing jurisdiction for a ruling.

4. Be signed by the taxpayer or potential taxpayer who makes the request or by an authorized representative of the taxpayer or potential taxpayer.

B. A private taxpayer ruling may be revoked or modified by either:

1. A change or clarification in the law that was applicable at the time the ruling was issued, including changes or clarifications caused by regulations and court decisions.

2. Actual written notice by the Tax Collector to the last known address of the taxpayer or potential taxpayer of the revocation or modification of the private taxpayer ruling.

C. With respect to the taxpayer or prospective taxpayer to whom a private taxpayer ruling is issued, the revocation or modification of a private taxpayer ruling shall not be applied retroactively to tax periods or tax years before the effective date of the revocation or modification and the Tax Collector shall not assess any penalty or tax attributable to erroneous advice that is furnished to the taxpayer or potential taxpayer in the private taxpayer ruling if:

1. The taxpayer reasonably relied on the private taxpayer ruling.

2. The penalty or tax did not result either from a failure by the taxpayer to provide adequate or accurate information or from a change in the information.

D. A private taxpayer ruling may not be relied upon, cited nor introduced into evidence in any proceeding by any taxpayer other than the taxpayer who received the ruling.

E. A taxpayer may appeal the propriety of a retroactive application of a revoked or modified private taxpayer ruling by filing a written petition with the tax collector pursuant to Section 3-05-005-0570 within forty-five (45) days after receiving written notice of the intent to retroactively apply a revoked or modified private taxpayer ruling.

F. A private taxpayer ruling constitutes the Tax Collector's interpretation of the sections of this chapter only as they apply to the taxpayer making, and the particular facts contained in, the request.

G. A private taxpayer ruling which addresses a taxpayer's ongoing business activities will apply only to transactions that occur or tax liabilities that accrue from and after the date of the taxpayer's ruling request.

H. The Tax Collector shall attempt to issue private taxpayer rulings within forty-five (45) days after receiving the written request and on receiving the facts that are relevant to the ruling. If the ruling is expected to be delayed beyond the forty-five (45) days, the Tax Collector shall notify the requestor of the delay and the proposed date of issuance.

I. Within thirty (30) days after being issued, the Tax Collector shall maintain the private taxpayer ruling as a public record and make it available at a reasonable cost for public inspection and copying. The text of private taxpayer rulings is open to public inspection subject to the confidentiality requirements prescribed by Section 3-05-005-0510.

J. In this section, "private taxpayer ruling" means a written determination by the Tax Collector issued pursuant to this section that interprets and applies one or more sections contained in this chapter and any applicable regulations.

K. A private taxpayer ruling issued by the Arizona Department of Revenue pursuant to A.R.S. Section 42-2101 may be relied upon by the taxpayer to whom the ruling was issued and must be recognized and followed by any city in which such taxpayer has obtained a privilege license if the City has not issued a ruling addressing the facts described in the taxpayer's ruling request and the statute at issue in the taxpayer's ruling request is, in essence, worded and written the same as the applicable section hereunder.

(Ord. 1924, 01/07/97; Ord. 2007-28, Amended, 05/01/2007)

DIVISION 3-05-006

USE TAX

SECTIONS:

3-05-006-0600 USE TAX: DEFINITIONS

3-05-006-0601 RESERVED

3-05-006-0602 RESERVED

3-05-006-0610 USE TAX: IMPOSITION OF TAX; PRESUMPTION

3-05-006-0620 USE TAX: LIABILITY FOR TAX

3-05-006-0630 USE TAX: RECORDKEEPING REQUIREMENTS

3-05-006-0640 USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION

3-05-006-0650 USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION

3-05-006-0660 USE TAX: EXEMPTIONS

3-05-006-0600 USE TAX: DEFINITIONS

For the purposes of this division only, the following definitions shall apply, in addition to the definitions provided in Division 3-05-001:

"Acquire (for storage or use)" means purchase, rent, lease, or license for storage or use.

"Retailer" also means any person selling, renting, licensing for use, or leasing tangible personal property under circumstances which would render such transactions subject to the taxes imposed in Division 3-05-004, if such transactions had occurred within this City.

"Storage (within the City)" means the keeping or retaining of tangible personal property at a place within the City for any purpose, except for those items acquired specifically and solely for the purpose of sale, rental, lease, or license for use in the regular course of business or for the purpose of subsequent use solely outside the City.

"Use (of tangible personal property)" means consumption or exercise of any other right or power over tangible personal property incident to the ownership thereof except the holding for the sale, rental, lease, or license for use of such property in the regular course of business.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0601 RESERVED

3-05-006-0602 RESERVED

3-05-006-0610 USE TAX: IMPOSITION OF TAX; PRESUMPTION

A. There is hereby levied and imposed, subject to all other provisions of this chapter, an excise tax on the storage or use in the City of tangible personal property, for the purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector.

B. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the:

1. Cost of tangible personal property acquired from a retailer, upon every person storing or using such property in this City.

2. Gross income from the business activity upon every person meeting the requirements of Section 3-05-006-0620(B) or (C) who is engaged or continuing in the business activity of sales, rentals, leases, or licenses of tangible personal property to persons within the City for storage or use within the City, to the extent that tax has been collected upon such transaction.

3. Cost of the tangible personal property provided under the conditions of a warranty, maintenance, or service contract.

4. Cost of complimentary items provided to patrons without itemized charge by a restaurant, hotel, or other business.

5. Reserved.

C. It shall be presumed that all tangible personal property acquired by any person who at the time of such acquisition resides in the City is acquired for storage or use in this City, until the contrary is established by the taxpayer.

D. Exclusions. For the purposes of this division, the acquisition of the following shall not be deemed to be the purchase, rental, lease, or license of tangible personal property for storage or use within the City:

1. Stocks, bonds, options, or other similar materials.

2. Lottery tickets or shares sold pursuant to A.R.S. Title 5, Chapter 5, Article I.

3. Platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.

E. Reserved.

F. Reserved.

(Ord. 2014-16, Enacted, 07/15/2014; Ord. 2019-13, Amended, 07/02/2019)

3-05-006-0620 USE TAX: LIABILITY FOR TAX

The following persons shall be deemed liable for the tax imposed by this division; and such liability shall not be extinguished until the tax has been paid to this City, except that a receipt from a retailer separately charging the tax imposed by this chapter is sufficient to relieve the person acquiring such property from further liability for the tax to which the receipt refers:

A. Any person who acquires tangible personal property from a retailer, whether or not such retailer is located in this City, when such person stores or uses said property within the City.

B. Any retailer not located within the City, selling, renting, leasing, or licensing tangible personal property for storage or use of such property within the City, may obtain a license from the Tax Collector and collect the use tax on such transactions. Such retailer shall be liable for the use tax to the extent such use tax is collected from his customers.

C. Every agent within the City of any retailer not maintaining an office or place of business in this City, when such person sells, rents, leases, or licenses tangible personal property for storage or use in this City, shall, at the time of such transaction, collect and be liable for the tax imposed by this division upon the storage or use of the property so transferred, unless such retailer or agent is liable for an equivalent excise tax upon the transaction.

D. Any person who acquires tangible personal property from a retailer located in the City and such person claims to be exempt from the City privilege or use tax at the time of the transaction, and upon which no City privilege tax was charged or paid, when such claim is not sustainable.

E. Every person storing or using tangible personal property under the conditions of a warranty, maintenance, or service contract.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0630 USE TAX: RECORDKEEPING REQUIREMENTS

All deductions, exclusions, exemptions, and credits provided in this division are conditional upon adequate proof of documentation as required by Division 3-05-003 or elsewhere in this chapter.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0640 USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION

In the event that an equivalent excise tax has been levied and paid upon tangible personal property which is acquired to be stored or used within this City, full credit for any and all such taxes so paid shall be allowed by the Tax Collector but only to the extent use tax is imposed upon that transaction by this division.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0650 USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION

The tax levied by this division does not apply to the storage or use in this City of tangible personal property acquired in this City, the gross income from the sale, rental, lease, or license of which were included in the measure of the tax imposed by Division 3-05-004 of this chapter; provided, however, that any person who has acquired tangible personal property from a vendor in this City without paying the City privilege tax because of a representation to the vendor that the property was not subject to such tax, when such claim is not sustainable, may not claim the exclusion from such use tax provided by this section.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0660 USE TAX: EXEMPTIONS

The storage or use in this City of the following tangible personal property is exempt from the use tax imposed by this division:

A. Tangible personal property brought into the City by an individual who was not a resident of the City at the time the property was acquired for his own use, if the first actual use of such property was outside the City, unless such property is used in conducting a business in this City.

B. Tangible personal property~~, the value of which does not exceed the amount of one thousand dollars ($1,000.00) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment~~

NOT EXCEEDING TWO HUNDRED DOLLARS IN ANY ONE MONTH PURCHASED BY AN INDIVIDUAL AT RETAIL OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES FOR THE INDIVIDUAL'S OWN PERSONAL USE AND ENJOYMENT.

C. Charges for delivery, installation, or other customer services, as prescribed by ~~regulation~~ SECTION 3-05-001-0100.2.

D. Charges for repair services, as prescribed by regulation.

E. Separately itemized charges for warranty, maintenance, and service contracts.

F. Prosthetics.

G. Income-producing capital equipment.

H. ~~Rental equipment and rental supplies.~~ TANGIBLE PERSONAL PROPERTY ACQUIRED BY A PERSON ENGAGED IN THE BUSINESS OF RENTING, LEASING, OR LICENSING FOR USE SUCH PROPERTY UNDER THE RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY CLASSIFICATION IF SUCH PROPERTY IS TO BE RENTED, LEASED, OR LICENSED FOR USE BY SUCH PERSON.

I. Mining and metallurgical supplies.

J. PURCHASES OF:

1. Motor vehicle fuel and use fuel which are used upon the highways of this State and upon which a tax has been imposed under the provisions of A.R.S. Title 28, Chapter 16, Article I or II; ~~.~~

2. USE FUEL TO A HOLDER OF A VALID SINGLE TRIP USE FUEL TAX PERMIT ISSUED UNDER A.R.S. SECTION 28-5739;

3. NATURAL GAS OR LIQUEFIED PETROLEUM GAS USED TO PROPEL A MOTOR VEHICLE;

4. MOTOR VEHICLE FUEL AND USE FUEL TO A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516;

5. REPAIR PARTS INSTALLED IN EQUIPMENT USED DIRECTLY BY A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516.

K. Tangible personal property purchased by:

1. a construction contractor, but not an owner-builder, when such person holds a valid privilege license for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.

2. A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 3-05-004-0415(B)(12) AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER A.R.S. SECTION 42-5009, SUBSECTION L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT, OR IMPROVEMENT DESCRIBED IN THE CERTIFICATE.

L. Sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.

M. Tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.

N. Rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under Section 3-05-004-0410, or by a radio station, television station, or subscription television system.

O. Food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under Section 3-05-004-0455, but not food consumed by owners, agents, or employees of such business.

P. Tangible personal property~~acquired by a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property is in fact used in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.~~ PURCHASED BY:

1. A QUALIFYING HOSPITAL;

2. A QUALIFYING HEALTH CARE ORGANIZATION IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE HEALTH AND MEDICAL RELATED EDUCATIONAL AND CHARITABLE SERVICES;

3. A QUALIFYING HEALTH CARE ORGANIZATION IF THE ORGANIZATION IS DEDICATED TO PROVIDING EDUCATIONAL, THERAPEUTIC, REHABILITATIVE, AND FAMILY MEDICAL EDUCATION TRAINING FOR BLIND AND VISUALLY IMPAIRED CHILDREN AND CHILDREN WITH MULTIPLE DISABILITIES FROM THE TIME OF BIRTH TO AGE TWENTY-ONE;

4. A QUALIFYING COMMUNITY HEALTH CENTER;

5. A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST;

6. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2001, A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT PROVIDES RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY, IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY;

7. A QUALIFYING HEALTH SCIENCES EDUCATIONAL INSTITUTION;

8. ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON DESCRIBED IN SUBDIVISIONS 1 THROUGH 7 OF THIS PARAGRAPH IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O.

Q. Reserved.

~~R. Reserved.~~

~~1. Reserved.~~

~~2. Reserved.~~

~~3. Reserved.~~

~~4. Reserved.~~

R. PURCHASES OF:

1. LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF FARMING, RANCHING, OR PRODUCING LIVESTOCK OR POULTRY.

2. LIVESTOCK AND POULTRY FEED, SALTS, VITAMINS, AND OTHER ADDITIVES SOLD TO PERSONS FOR USE OR CONSUMPTION IN THE BUSINESSES OF FARMING, RANCHING, AND PRODUCING OR FEEDING LIVESTOCK OR POULTRY OR FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

3. IMPLANTS USED AS GROWTH PROMOTANTS AND INJECTABLE MEDICINES, NOT ALREADY EXEMPT UNDER THE DEFINITION OF “PROSTHETIC.” FOR LIVESTOCK AND POULTRY OWNED BY, OR IN POSSESSION OF, PERSONS WHO ARE ENGAGED IN PRODUCING LIVESTOCK, POULTRY, OR LIVESTOCK OR POULTRY PRODUCTS, OR WHO ARE ENGAGED IN FEEDING LIVESTOCK OR POULTRY COMMERCIALLY. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

4. NEAT ANIMALS, HORSES, ASSES, SHEEP, RATITES, SWINE, OR GOATS USED OR TO BE USED AS BREEDING OR PRODUCTION STOCK, INCLUDING SALES OF BREEDINGS OR OWNERSHIP SHARES IN SUCH ANIMALS USED FOR BREEDING OR PRODUCTION.

S. Groundwater measuring devices required by A.R.S. Section 45-604.

T. Reserved.

U. ~~Aircraft acquired for use outside the State, as prescribed by regulation.~~ SEEDS, SEEDLINGS, ROOTS, BULBS, CUTTINGS, AND OTHER PROPAGATIVE MATERIAL FOR USE IN COMMERCIALLY PRODUCING AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS IN THIS STATE.

V. ~~Sales of f~~Food products SOLD by FOOD producers as provided for by A.R.S. Sections 3-561, 3-562 and 3 -563.

W. Reserved.

X. Food and drink provided by a person who is engaged in business that is classified under the restaurant classification without monetary charge to its employees for their own consumption on the premises during such employees' hours of employment.

Y. Tangible personal property donated to an organization or entity qualifying as an exempt organization under 26 U.S.C Section 501(c)(3); if and only if:

1. The donor is engaged or continuing in a business activity subject to a tax imposed by Division 3-05-004; and

2. The donor originally purchased the donated property for resale in the ordinary course of the donor's business; and

3. The donor obtained from the donee a letter or other evidence satisfactory to the Tax Collector of qualification under 26 U.S.C. Section 501(c)(3) from the Internal Revenue Service or other appropriate Federal agency; and

4. The donor maintains, and provides upon demand, such evidence to the Tax Collector, in a manner similar to other documentation required under Division 3-05-003.

Z. Reserved.

AA. Tangible personal property used in remediation contracting as defined in Section 3-05-001-0100 and ~~Regulation 3-5-100.5~~ SECTION 3-05-001-0100.5.

BB. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, State university libraries or Federal, State, County or municipal libraries for use by the public as follows:

1. Printed or photographic materials.

2. Electronic or digital media materials.

CC. Food, beverages, condiments and accessories used for serving food and beverages by a commercial airline, as defined in A.R.S. Section 42-5061~~(A)(49)~~, that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

DD. Wireless telecommunication equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 3-05-004-0470.

EE. Reserved.

FF. Alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. Section 49-426 or A.R.S. SECTION 49-480.

GG. Food, beverages, condiments and accessories purchased by or for a public educational entity, pursuant to any of the provisions of A.R.S. Title 15, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. Section 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

HH. Personal hygiene items purchased by a person engaged in the business of and subject to tax under Section 3-05-004-0444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

II. The diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

JJ. Food, beverages, condiments and accessories purchased by or for a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means

paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

KK. Sales of motor vehicles that use alternative fuel if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

LL. The storage, use or consumption of tangible personal property in the City or town by a school district or charter school.

MM. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this ~~subsection~~ PARAGRAPH, "renewable energy credit" means a unit created administratively by the Corporation Commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

NN. Magazines or other periodicals or other publications by this State to encourage tourist travel.

OO. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

PP. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

QQ. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in A.R.S. Section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This ~~subsection~~ PARAGRAPH shall apply for twenty (20) full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

RR. Machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in A.R.S. Section 41-1514.02. This subsection applies for ten (10) full consecutive calendar or fiscal years after the start of initial construction.

SS. RESERVED.

TT. THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE OF REFINING THE COAL; AND

2. THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

UU. COMPUTER DATA CENTER EQUIPMENT PURCHASED BY THE OWNER, OPERATOR, OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER A.R.S. SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER," "COMPUTER DATA CENTER EQUIPMENT," "QUALIFICATION PERIOD," AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED PRESCRIBED IN A.R.S. SECTION 41-1519.

VV. RESERVED.

WW. THE PURCHASE MANUFACTURE, WHOLESALE, OR DISTRIBUTION TO OR AMONG ANY WHOLESALERS, DISTRIBUTORS, OR RETAILERS, OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

XX. ANY CONTAINER OR PACKAGING USED EXCLUSIVELY FOR TRANSPORTING, PROTECTING, OR CONSUMING FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

YY. MACHINERY, EQUIPMENT, TECHNOLOGY, OR RELATED SUPPLIES THAT ARE ONLY USEFUL TO ASSIST A PERSON WITH A PHYSICAL DISABILITY AS DEFINED IN A.R.S. SECTION 46-191 OR A PERSON WHO HAS A DEVELOPMENTAL DISABILITY AS DEFINED IN A.R.S. SECTION 36-551 OR HAS A HEAD INJURY AS DEFINED IN A.R.S. SECTION 41-3201 TO BE MORE INDEPENDENT AND FUNCTIONAL.

ZZ. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR STATE UNIVERSITY. FOR THE PURPOSES OF THIS PARAGRAPH:

1. "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.

2. "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING, OR REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS, OR OTHER LEARNING ACTIVITIES.

(Ord. 2014-16, Enacted, 07/15/2014)

DIVISION 3-05-007

REGULATIONS-PRIVILEGE AND EXCISE TAXES

SECTIONS:

3-05-007-0001 REGULATIONS-PRIVILEGE AND EXCISE TAXES~~:~~

3-05-007-0001 REGULATIONS-PRIVILEGE AND EXCISE TAXES~~:~~

Reg. 3-5-100.1. BROKERS~~:~~

SECTION 3-05-001-0100.1 REPLACES REGULATION 3-5-100.1 BROKERS WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) For the purposes of proper administration of this Chapter and to prevent evasion of taxes imposed, brokers shall be wherever necessary treated as taxpayers for all purposes, and shall file a return and remit the tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 3-05-004-0405, relating to advertising commissions.~~

~~(b) Brokers for vendors. A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subject to the tax if he conducted such activity in his own behalf, by reason of the activity being deemed a "casual" one. For example:~~

~~(1) An auctioneer or other sales agent of tangible personal property is subject to the tax imposed upon retail sales, even if such sales would be deemed "casual" if his principal had sold such items himself.~~

~~(2) A property manager is subject to the tax imposed upon rental, leasing, or licensing of real property, even if such rental, leasing, or licensing would be deemed "casual" if his principal managed such real property himself.~~

~~(c) Brokers for vendees. A broker acting solely for a buyer, lessee, tenant, or other similar person who is a party to a transaction which may be subject to the tax, shall be liable for such tax and for filing a return in connection with such tax only to the extent his principal is subject to the tax.~~

(d) The liability of a broker does not relieve the principal of liability except upon presentation to the Tax Collector of proof of payment of the tax, and only to the extent of the correct payment. The broker shall be relieved of the responsibility to file and pay taxes upon the filing and correct payment of such taxes by the principal.

(e) Reserved.

(f) Location of Business. Retail sales by brokers acting for another person shall be deemed to have occurred at the regular business location of the broker, in a manner similar to that used to determine "out-of-City sales"; provided, however, that an auctioneer is deemed to be engaged in business at the site of each auction.

Reg. 3-5-100.2. DELIVERY, INSTALLATION, OR OTHER DIRECT CUSTOMER SERVICES:

(a) "Delivery Charges" exist only when the total charges to the ultimate customer or consumer include, as separately charged to the ultimate customer, charges for delivery to the ultimate consumer, whether the place of delivery is within or without the City, and when the taxpayer's books and records show the separate delivery charges.

(1) Identification to the customer or consumer that the listed price has "delivery included" or other similar expression is insufficient to show the delivery as a separate charge. Only the separately stated charge for the delivery shall be deemed a "delivery charge".

(2) Freight in. Charges for delivery from place of production or the manufacturer to the vendor either directly or through a chain of wholesalers or jobbers or other middlemen are deemed "freight-in" and are not considered delivery.

(b) "Installation", as used in this definition, relates only to tangible personal property. installation to real property is deemed construction contracting in this Chapter. Examples of installation relating to tangible personal property are: installing a radio in an automobile; applying sun screens on the windows of a boat; installing cabinets, carpeting, or "built-in appliances" to a camper or motorized recreational vehicle.

(c) Repair of tangible personal property is not included in this definition. See Regulation 3-5-465.(1)

(d) "Direct Customer Services" means services other than repair rendered directly to the customer. Services or labor provided by any person prior to the transfer of tangible personal property to the customer or consumer are not included in this definition. In the following examples, the requirements of subsection (e) below are referred to by the words "identify" or "identification."

(1) A retailer sells a customer a $100 "plug-in" appliance, with a $25 delivery and installation charge. If the retailer identifies the $25 delivery and installation charge, it is a charge for direct customer services.

(2) A caterer charges his customer $1,000 for the food and drink served, $300 for setup and site cleanup, and $500 for bartender and waiters. If all charges are properly identified, only the $300 for set up and cleanup is a charge for direct customer services, and the $1,500 for food and service is restauranting gross income.

(3) Persons engaged in engraving on wood, metal, stone, etc. or persons engaged in retouching photographs or paintings may consider such charges for labor as direct customer services.

(4) All charges by a photographer resulting in the sale of a photograph (sitting charges, developing, making enlargements, retouching, etc.) for services that occur prior to transfer of tangible personal property are not direct customer services.

(5) An equipment rental company charging $25 for delivery may consider such delivery charge as a charge for direct customer service only if such charge is properly identified.

(6) Even if identified, charges for labor incurred in the production of any manufactured article or of a custom-made article (jewelry, artwork, tailoring, draperies, etc.) are not included in this definition, as such labor occurs prior to the transfer of property.

(e) Recordkeeping requirements.

(1) Any person who engages in transactions involving these services must:

(A) Separately bill, invoice, or charge the customer for such services in a manner by which the customer or consumer may readily identify the specific dollar amount of the service charge; and

(B) Maintain business books and records in a manner in which the separate charge for such services can be clearly identified, to the satisfaction of the Tax Collector.

(2) Rendering a statement to a customer for a transaction involving such services and the transfer of tangible personal property which only indicates the total amount of the charges with words such as

~~"services included" or "charge includes labor and parts" or similar a expression does not satisfy the requirements of this subsection.~~

Reg. 3-5-100.3. RETAILERS~~:~~

SECTION 3-05-001-100.3 RETAILERS REPLACES REGULATION 3-5-100.3 RETAILERS WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~When in the opinion of the Tax Collector it is necessary for efficient administration of this Chapter, he may regard any salesman, representative, peddler, canvasser, or agent of any dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains tangible personal property for sale, rental, lease, or license as a retailer for the purposes of this Chapter, irrespective of whether he is making sales, rentals, leases, or licenses on his own behalf or on behalf of others. The Tax Collector may also regard such dealer, distributor, supervisor, or employer as a retailer for the purposes of this Chapter.~~

Reg. 3-5-100.4. OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS~~:~~

SECTION 3-05-001-0100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS REPLACES REGULATION 3-5-100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) Sales to Native Americans or tribal councils by vendors located within the City shall be deemed sales within the City, unless all of the following conditions exist:~~

~~(1) The vendor has properly accounted for such sales, in a manner similar to the recordkeeping requirements for out-of-City sales; and,~~

~~(2) All of the following elements of the sale exist:~~

~~(A) Solicitation and placement of the order occurs on the reservation; and~~

~~(B) Delivery is made to the reservation; and~~

~~(C) Payment originates from the reservation.~~

Reg. 3-5-100.5. REMEDIATION CONTRACTING~~.~~

SECTION 3-05-001-0100.5 REMEDIATION CONTRACTING REPLACES REGULATION 3-5-100.5 REMEDIATION CONTRACTING WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~The following activities are considered remediation contracting and are exempt:~~

~~(1) Excavation, transportation, treatment, and/or disposal of contaminated soil for purposes of site remediation (rather than characterization);~~

~~(2) Installation of groundwater extraction and/or injection wells for purposes of groundwater remediation;~~

~~(3) Installation of pumps and piping into groundwater extraction wells for remediation purposes;~~

~~(4) Installation of vapor extraction wells for the purpose of soil or groundwater remediation;~~

~~(5) Construction of remediation systems, such as groundwater treatment plants, vapor extraction systems, or air injection systems;~~

~~(6) Connection of remediation systems to utilities;~~

~~(7) Abandonment of groundwater or vapor extraction wells;~~

~~(8) Removal/demolition of remediation systems;~~

~~(9) Capping/closure construction activities; and~~

~~(10) Service or handling charges for subcontracted remediation contracting activities.~~

Reg. 3-5-115.1. COMPUTER HARDWARE, SOFTWARE, AND DATA SERVICES~~S~~

A. Definitions.

1. "Computer hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, and network.

2. "Computer software" (also called "computer program") is tangible personal property, and includes:

a. "Operating program (software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.

b. "Applied program (software)," which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one (1) computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.

3. "Storage medium" is any hard disk, compact disk, floppy disk, diskette, disk pack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.

4. A "terminal arrangement" (also called "'online' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.

5. A "computer services agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.

B. For the purposes of this chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:

1. Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.

2. Computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched

passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

a. The entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.

b. The entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.

c. License fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.

d. The entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.

e. Any charge for the purchase of a maintenance contract which entitles the customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services; provided, that:

(1) If such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(2) If such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(3) If such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements

or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

C. Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this chapter:

1. Statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection ~~(E) of this section~~ E BELOW.

2. Additional copies of records, reports, manuals, tabulations, etc. "Additional copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

D. Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.

E. The following transactions are deemed direct customer services; provided, that charges for such services are separately stated and maintained as provided by Regulation 3-5-100.2(e):

1. "Custom (computer) programming," which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

a. Customer computer programming is deemed a professional service regardless of the form in which the programming is transferred.

b. Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware; provided, that the charges for such are separately stated from the charges for the hardware.

c. Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.

2. Training services related to computer hardware or software; provided further, that:

a. The provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.

b. Training deemed a direct customer service does not include:

(1) Training materials, books, manuals, etc., furnished to customers for a charge separate from the charge for training services.

(2) Training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.

3. The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).

4. Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

F. The purchase, rental, lease, or license for use of computer hardware, storage media, or computer software which is not deemed custom programming is deemed the use or storage of tangible personal property for the purpose of this chapter, and the amount which may be subject to use tax shall be determined in the same manner as the determination of the gross income from the sale, rental, lease, or license for use of such.

(Ord. 2014-16, Amended, 07/15/2014)

Reg. 3-5-120.1. Repealed by Ord. 2013-26.

Reg. 3-5-200.1. WHEN DEPOSITS ARE INCLUDABLE IN GROSS INCOME~~:~~

(a) Refundable deposits shall be includable as gross income of the taxpayer for the month in which the deposits are forfeited by the lessee.

(b) Reserved.

Reg. 3-5-250.1. EXCESS TAX COLLECTED:

If a taxpayer collects taxes in excess of the combined tax from any customer in any transaction, all such excess tax shall be paid to the taxing jurisdictions in proportion to their effective rates. The right of the taxpayer to charge his customer for his own liability for tax does not allow the taxpayer to enrich himself at the cost of his customers. Tax paid on an activity that is not subject to tax or that qualifies for an exemption, deduction, exclusion or credit is not excess tax collected.

Reg. 3-5-270.1. PROPRIETARY ACTIVITIES OF MUNICIPALITIES ARE NOT CONSIDERED ACTIVITIES OF A GOVERNMENTAL ENTITY:

The following activities, when performed by a municipality, are considered to be activities of a person engaged in business for the purposes of this Chapter, and not excludable by reason of Section 3-05-002-0270:

A. Rental, leasing, or licensing for use of real property to other than another department or agency of the municipality.

B. Producing, providing, or furnishing electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

C. Sale of tangible personal property to the public, when similar tangible personal property is available for sale by other persons, as, for example, at police or surplus auctions.

D. Providing wastewater removal services to consumers or ratepayers by means of sewer lines or similar pipelines.

Reg. 3-5-270.2. PROPRIETARY CLUBS:

(a) Equity requirements. In order to qualify for exclusion under Section 3-05-002-0270, a proprietary club must actually be owned by the members. For the purposes of qualification, a club will be deemed to be member-owned if at least eighty-five percent (85%) of the equity of the total amount of club-owned property is owned by bona fide individual members whose membership is represented in the form of shares, certificates, bonds, or other indicia of capital interest. A corporation may be considered an individual owner provided that it owns a membership solely for the benefit of one or more of its employees and it is not engaged in any business activity connected with the operation of the club.

(b) Gross revenue requirements. In computing gross revenue for the computation of this fifteen percent (15%) rule of subsection 3-05-002-0270 (c)(1),

(1) The following shall be excluded:

(A) Membership dues.

(B) Membership fees which relate to the general admission to the club on a periodic (or perpetual) basis.

(C) Assessments.

(D) Special fund raising events, raffles, etc.

(E) Donations, gifts, or bequests.

(F) Gate receipts, admissions, and program advertising for not more than one tournament in any calendar year.

(2) The following must be included:

(A) Green fees, court use fees, and similar charges for the actual use of a facility or part thereof.

(B) Pro shop sales if the shop is owned by the club.

(C) Golf cart rental if the carts are owned by the club.

(D) Rentals, percentages, or commissions received for permitting the use of the premises or any portion thereof by a caterer, concessionaire, professional, or any other person for sales, rental, leasing, licensing, catering, food or beverage service, or instruction.

(E) All receipts from food or beverage sales, room use or rental charge, corkage and catering charges, and similar receipts.

(F) Locker and locker room fees and attendants charges if paid to the club.

(G) Tournament entry fees other than entry fees for the one annual tournament exempt under subsection (b)(1)(f). above.

Reg. 3-5-405.1. LOCAL ADVERTISING EXAMPLES:

For the purposes of illustration only, and not by way of limitation, the following are provided as examples of local advertising subject to the tax:

(1) Retail sales and rental establishments doing business within the State when only one commonly designated business entity is identified by name in the advertisement.

(2) Financial institutions doing business within the State whether part of a national chain or local business only.

(3) Sales of real estate located within the State.

(4) Health care facilities located within the State.

(5) Hotels, motels, and apartments, whether a national chain or local so long as the advertisement identifies any location within the State.

(6) Brokers doing business within the State whether stockbrokers, real estate brokers, insurance brokers, etc.

(7) Nonprofit organizations, which even though tax exempt, have an office, whether national, local, or branch, within the State.

(8) Political activity, except United States Presidential and Vice Presidential candidates.

(9) Restaurants or food service establishments which have one or more branches, outlets, or franchises within the State even though the local franchisee or licensee may not be responsible for the placement of the advertisement.

(10) Services provided by individuals or entities within the State such as doctors, lawyers, architects, hairdressers, auto repair shops, counseling services, utilities, contractors, auction houses, etc.

(11) Coupons redeemable only at a single commonly designated business entity within the State.

(12) Theater, sports, and other entertainment events held at locations within the State.

Reg. 3-5-405.2. ADVERTISING ACTIVITY WITHIN THE CITY:

(a) In General. Except as provided elsewhere in this regulation, a person engaged in advertising activity shall be considered to be doing business entirely within the City if all or a major portion of the dissemination facilities such as broadcasting studios, printing plants, or distribution centers are located within the City limits. Remote studios patched to an in-City studio and subject to engineering modulation or control at the in-City studio are considered studios doing business in the City.

(b) Billboards and other outdoor advertising companies shall be considered to be doing business within the City to the extent they have billboards or similar displays within the City.

(c) Publishers and distributors of newspaper and other periodicals shall be subject to the tax upon advertising imposed by Section 3-05-004-0405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 3-05-005-0435.

Reg. 3-5-407.1. RESERVED~~:~~

Reg. 3-5-415.1. DISTINCTION BETWEEN THE CATEGORIES OF CONSTRUCTION CONTRACTING:

For the purposes of this Chapter, transactions involving improvements to, or sales of, real property are designated into one of the following categories, and these categorizations shall apply, whether or not a person designates himself as a contractor, construction manager, developer, or otherwise:

(a) A person performing improvements to real property is one of the following:

(1) An "Owner-Builder" when the work is performed by the owner or lessor or lessee-in-possession. An "owner-builder" may also be a "speculative builder".

(2) A "Construction Contractor" when performing work for the owner or lessor or lessee-in-possession of the real property, unless that person has provided a written declaration stating that:

(A) The owner-builder is improving the property for sale; and

(B) The owner-builder is liable for the tax for such construction contracting activity; and

(C) The owner-builder has provided the contractor his city Privilege License number.

(3) A "Subcontractor" as provided in Section 3-05-004-0415 (c)

(b) An owner or lessor ("owner-builder") of improved real property is one of the following:

(1) A "Speculative Builder" as provided in Section 3-05-001-0100; or

(2) An "owner-builder who is not a speculative builder" in all other cases.

(c) The terms "owner", "lessor", and "lessee-in-possession" shall be deemed to include any authorized agent for such person.

Reg. 3-5-415.2. DISTINCTION BETWEEN CONSTRUCTION CONTRACTING AND CERTAIN RELATED ACTIVITIES:

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

(1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.

(2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.

(3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.

(b) Distinction between construction contracting, retail, and certain direct customer service activities.

(1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.

(2) Items attached or installed on tangible personal property are retail sales.

(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).

(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(d) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Reg. 3-5-0415.3 CONSTRUCTION CONTRACTING; TAX RATE EFFECTIVE DATE.

A. In the event of a tax rate change, the rate imposed on gross income from construction contracting shall be computed based upon the rate in effect when the contract was executed, subject to the "enactment date" as defined in this section. Gross income from a contract executed prior to the enactment date shall not be subject to the tax rate change, provided the contract contains no provision that entitles the construction contractor to recover the amount of the tax.

B. In the event of a rate increase, in order to qualify for the lower rate, the construction contractor shall, upon request, provide sufficient documentation, in a manner and form prescribed by the tax collector, to verify that a contract was entered into before the enactment date.

C. For the purposes of this section, "enactment date" shall be:

(1) In the event an election is held, the date of election.

(2) In the event no election is held, the date of final adoption by the Mayor and Council.

(3) Notwithstanding the above, nothing in this section shall be construed to prevent the City from establishing a later enactment date.

Reg. 3-5-416.1. SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE:

SECTION 3-05-004-416.1 SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE REPLACES REGULATION 3-5-416.1 SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) A sale of a custom home, regardless of the stage of completion of such home shall be considered a "homeowner's bona fide non-business sale" and not subject to the tax on speculative builders if:~~

~~(1) The property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and~~

~~(2) The seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and~~

~~(3) The seller has not licensed, leased, or rented the sold premises for any period within twenty-four (24) months prior to the offer for sale.~~

~~(b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, the construction contracting on a family residence shall be presumed to be for an owner's bona fide non-business purpose and all construction contractors shall be required to report and pay the tax imposed on all such improvements.~~

~~(c) Purchases by a homeowner of tangible personal property for inclusion in any construction, alteration, or repair of his residence shall be subject to tax as retail sales to the ultimate consumer.~~

~~(d) "Owner" and "Homeowner" as used in this Regulation shall only mean an individual, and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.~~

Reg. 3-5-416.2. RECONSTRUCTION CONTRACTING:

SECTION 3-05-004-416.2 RECONSTRUCTION CONTRACTING REPLACES REGULATION 3-5-416.2 RECONSTRUCTION CONTRACTING WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) "Reconstruction (of Real Property)" shall mean the subdividing of real property and, in addition, all construction contracting activities performed upon said real property; provided, however, that each of the following conditions are met:~~

~~(1) A structure existed on said real property prior to the reconstruction activity; and~~

~~(2) The "prior value" of said structure exceeds fifteen percent (15%) of the "prior value" of the integrated property (land, improvements, and structure); and~~

~~(3) The total cost of all construction contracting activities performed on said real property in the twenty-four (24) month period prior to the sale of any part of the real property exceeds fifteen percent (15%) of the "prior value" of the real property; and~~

~~(4) The structure which existed on the real property prior to the reconstruction activity still exists in some form upon the property, and is included, in whole or in part, in the property sold.~~

~~(b) Except as provided in subsection (c) below, "prior value" means the value of the total integrated property, with improvements, as existing immediately prior to any reconstruction activity. where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary tax purposes is intended to represent the property's fair market value, "prior value" shall be the property's full cash value for secondary property tax purposes as determined by the County Assessor in the year immediately preceding the year in which the reconstruction improvement(s) are or could have been included in the County Assessor's valuation. If the County Assessor's valuation is contested or appealed, the final determination at either the administrative or judicial level shall apply. Where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary property tax purposes is not intended to represent the property's fair market value, "prior value" shall be the property's fair market value prior to the reconstruction improvement(s).~~

~~(c) "Alternative Prior Value" shall mean that as an alternative to the "prior value" defined above, the taxpayer may use his actual cost of the reconstructed property prior to reconstruction, provided that evidence of such cost is presented to the Tax Collector and is determined by the Tax Collector, in his sole discretion, to be satisfactory. Such evidence shall consist, at a minimum, of proof of the actual, arms-length acquisition price,~~

~~accompanied by a full appraisal of all property involved which appraisal shall have been performed by a real estate broker or MAI appraiser specifically for the purpose of assisting in the acquisition and further shall have been performed on behalf of the seller or a lending institution which has lent at least sixty-five percent (65%) of the acquisition price. (Only long term lending - not interim or construction financing will be considered.) This alternative value shall be used only if the property was acquired by the reconstruction taxpayer not more than thirty-six (36) months prior to a "sale" as defined below.~~

~~(d) A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only shall be deemed to have occurred as of the date of the execution of a contract of sale or a deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any single residential or other occupancy unit. In addition to the foregoing, a lease with option to purchase a single residential unit shall be considered a "sale" at the date of execution of such lease if said option is exercisable by the lessee in not later than nine (9) months. Further in the case of cooperative apartments, the sale date shall be the date of execution of the contract selling (subject or not to encumbrances, liens or security interests) of a share, or a sufficient number of shares which entitle the purchaser to the occupancy of a residential unit. In all cases a person shall include a husband and wife as a community, or any co-occupants of a single unit as joint tenants.~~

Reg. 3-5-425.1. DISTINCTION BETWEEN JOB PRINTING AND CERTAIN RELATED ACTIVITIES~~:~~

(a) Computerized Printing. Computerized versions of all items which would be taxable under Section 3-05-004-0425 if performed without computerized assistance are considered taxable under that Section, and therefore, are not exempt services.

(b) Book publishing. The printing of books shall be deemed job printing. Sales of books shall be deemed retail sales.

(c) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.

Reg. 3-5-435.1. DISTINCTION BETWEEN PUBLISHING OF PERIODICALS AND CERTAIN RELATED ACTIVITIES~~:~~

(a) Book publishing shall not be considered publication of newspapers, magazines, or other periodicals for purposes of this Chapter. Sales of books shall be deemed retail sales. The printing of books shall be deemed job printing.

(b) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this chapter.

Reg. 3-5-435.2. ADVERTISING INCOME OF PUBLISHERS AND DISTRIBUTORS OF NEWSPAPERS AND OTHER PERIODICALS:

Publishers and distributors of newspapers and other periodicals shall be subject to the tax upon advertising imposed by Section 3-05-004-0405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 3-05-004-0435.

Reg. 3-5-445.1. WHEN THE RENTAL, LEASING, AND LICENSING OF REAL PROPERTY IS EXEMPT AS "CASUAL":

Reg. 3-5-445.1. When the rental, leasing, and licensing of real property is exempt as "casual".

(a) (Reserved)

(b) (Reserved)

Reg. 3-5-445.3. RENTAL, LEASING, AND LICENSING OF REAL PROPERTY AS LODGING: ROOM AND BOARD; FURNISHED LODGING:

(a) Room and board.

(1) Rooming houses, lodges, or other establishments providing both lodging and meals, shall maintain a record of the separate charges made for the lodging and the meals.

(2) The charge for lodging shall be subject to the tax imposed by Section 3-05-004-0444 or 3-05-004-0445. The charge for meals is subject to the tax upon restaurants and bars prescribed by Section 3-05-004-0455.

(b) Furnished lodging. A person who provides lodging with furnishings shall be deemed to be only in the business of rental, leasing, and licensing of lodging, and not in the business of rental, leasing, and licensing of such furnishings as tangible personal property, unless:

(1) Any tenant of any lodging space may choose to rent, lease, or license such lodging space either furnished or unfurnished; and

(2) The lessor separately charges tenants for lodging and for furnishings; and

(3) The lessor separately maintains his gross income from lodging and from furnishings separately in his accounting books and records.

If all of the above conditions are met, such person shall report both sources of income separately to the City.

Reg. 3-5-450.1. DISTINCTION BETWEEN RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY AND CERTAIN RELATED ACTIVITIES:

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

(1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.

(2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.

(3) Rental of pumps or cranes is rental of tangible personal property, regardless of whether or not an operator is included with the equipment rented.

(b) Distinction between equipment rental, leasing, or licensing for use and transporting for hire. The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is considered rental, leasing, or licensing of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Reg. 3-5-450.2. RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY: MEMBERSHIP FEES; OTHER CHARGES:

(a) Membership, admission, or other fees charged by any rental club or limited access lessor are considered part of taxable gross income.

(b) Gross income from rental, leasing, or licensing for use of tangible personal property must include all charges by the lessor to the lessee for repair, maintenance, or other service upon the tangible personal property rented, leased, or licensed.

(c) Sale of a warranty, maintenance, or service contract as a requirement of, or in conjunction with, a rental, leasing, or licensing contract is exempt.

Reg. 3-5-450.3. RENTAL, LEASING, AND LICENSING FOR USE OF EQUIPMENT WITH OPERATOR.

In cases where the tangible personal property is rented, leased, or licensed with an operator provided by the lessor, the charge for the operator shall not be includable in the gross income from the rental, lease, or license of such tangible personal property if the charge for the operator and the charge for the use of the equipment are separately itemized to the lessee and separately maintained on the books and records of the lessor.

Reg. 3-5-450.4. RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY: SEMI-PERMANENTLY OR PERMANENTLY INSTALLED TANGIBLE PERSONAL PROPERTY.

(a) The term "semi-permanently or permanently installed" means that the item of tangible personal property has and is expected to have at the time of installation a permanent location at the site installed, as under a long-term lease agreement, except that the person using or applying said property may eventually replace it because it has become worn out or has become obsolete or the person ceases to have the right to possession of said property.

(b) An item of tangible personal property is deemed permanently installed if its installation requires alterations to the premises.

(c) Examples of "semi-permanently or permanently installed tangible personal property" include, but are not limited to: Computers, duplicating machines, furniture not of portable design, major appliances, store fixtures.

(d) The term does not include mobile transportation equipment or tangible personal property designed for regular use at different locations or customarily used at different locations, as under numerous short-term rental, lease, or license agreements, whether or not such property is in fact so used.

(1) For example, use of a mobile crane, trencher, automobile, or other similar equipment shall be considered a rental, lease, or license transaction subject to taxation only by the city or town in which such business office of the lessor is based.

(2) Other similar examples include, but are not limited to: camping equipment, contracting equipment, chain saw, forklift, household items, invalid needs, janitorial equipment, reducing equipment, furniture of portable design, trucks or trailers, tools, towbars, sump pumps, arc welders.

(e) A rental, lease, or license agreement which specifies that the item in question shall remain, under the terms of the agreement, located within the same city or town for more than one hundred eighty (180) consecutive days shall be sufficient evidence that such rented, leased, or licensed item is "permanently or semi-permanently installed" in said city or town, except when the item is mobile transportation equipment or one of the other types of portable equipment or property described in subsection (d) above.

Reg. 3-5-450.5. RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY: DELIVERY, INSTALLATION, REPAIR, AND MAINTENANCE CHARGES

(a) Delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property are exempt from the tax imposed by Section 3-05-004-0450; provided that the provisions of Regulation 3-5-100.2 have been met.

(b) Gross income from the sale of a warranty, maintenance, or similar service contract in connection with the rental, leasing, and licensing of tangible personal property shall be exempt:

(c) Separately stated charges for repair not included as part of a warranty, maintenance, or similar service contract relating to the rental, leasing, or licensing of tangible personal property are exempt from the tax imposed by Section 3-05-004-0450; however, such income is subject to the provisions of Sections 3-05-004-0460 and 3-05-004-0465, and the provisions of Regulation 3-5-465.(1).

Reg. 3-5-455.1. GRATUITIES RELATED TO RESTAURANT ACTIVITY

Gratuities charged by or collected by persons subject to the tax imposed by Section 3-05-004-0455 may be excluded from gross income if:

(a) Such charge is separately stated upon the bill, invoice, etc. provided the customer, and such amounts are maintained separately in the books and records of the taxpayer; and

(b) Such gratuities are distributed in total to employees of the taxpayer in addition to customary and regular wages.

Reg. 3-5-460.1. DISTINCTION BETWEEN RETAIL SALES AND CERTAIN OTHER TRANSFERS OF TANGIBLE PERSONAL PROPERTY~~:~~

A. Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by Section 3-05-004-0460:

1. Tangible personal property incorporated into real property as part of reconstruction or construction contracting, per Sections 3-05-004-0415 through ~~3-05-004-0417~~ 3-05-004-0418.

2. Sales of feed at wholesale, per Section 3-05-004-0420.

3. Job printing, per Section 3-05-004-0425.

4. Mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground, per Section 3-05-004-0430.

5. Publication of newspapers, magazines, and other periodicals, per Section 3-05-004-0435.

6. Rental, leasing, and licensing of real or tangible personal property, per Sections 3-05-004-0445 or 3-05-004-0450.

7. Restaurants and bars, per Section 3-05-004-0455.

8. Food for home consumption, per Section 3-05-004-0462.

9. Telecommunications services, per Section 3-05-004-0470.

10. Utility services, per Section 3-05-004-0480.

11. Wastewater removal services, per Section 3-05-004-0485.

B. Distinction between construction contracting, retail, and certain direct customer service activities.

1. When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.

2. Items attached or installed on tangible personal property are retail sales.

3. Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).

4. Demolition, earth moving, and wrecking activities are considered construction contracting.

C. The sale of sand, rock, and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.

D. Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

E. Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

1. "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

2. Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

3. Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

4. The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Reg. 3-5-460.2. RETAIL SALES: TRADING STAMP COMPANY TRANSACTIONS.

A trading stamp transaction is defined as follows: The trading stamp company issues stamps to a vendor; the vendor then provides them to its customers; and the customer then exchanges the stamps for merchandise from the trading stamp company.

The exchange transaction for the merchandise shall be deemed a retail sale and the trading stamp company a retailer. All taxes imposed by this Chapter applicable to retail transactions are therefore applicable to such exchange transactions.

The rate of tax shall be the retail rate based upon the retail dollar value of the redeemed merchandise as expressed in the redemption dollar value per book of stamps or portion thereof. The tax imposition described herein is in lieu of any Privilege or Use Tax upon the business of issuing stamps, redeeming the same, or using or storing property redeemed.

Reg. 3-5-460.3. ~~RETAIL SALES: MEMBERSHIP FEES OF RETAILERS:~~ REPEALED EFFECTIVE OCTOBER 1, 2019.

~~Membership, admission, or other fees charged by limited access retailers are considered part of taxable gross income of the business activity of selling tangible personal property.~~

Reg. 3-5-460.4. RETAIL SALES: PROFESSIONAL SERVICES~~:~~

(a) "Professional Services" refer to services rendered by such persons as doctors, lawyers, accountants, architects, etc. for their customers or clients where the services meet particular needs of a specific client and only apply in the factual context of the client and the final product has no retail value in itself. For example, opinion letters, workpapers, reports, etc. are not in a form which would be subject to retail sales to customers. However, transfer of items in a form which would be subject to retail sales (e.g., artwork, forms, manuals, etc.) would not be considered professional services. The issue is one of fact which must be resolved in each situation.

(b) Creative ("idea") labor and design labor that do not result in tangible personal property that will be or can be sold are deemed professional services and, if charged separately and maintained separately in the taxpayer's books and records, are not includable in gross income.

(c) "Professional services" shall be deemed to include those items of tangible personal property which are incidental to the services rendered, provided such tangible personal property is "inconsequential."

(1) Incidental transfers of tangible personal property shall be regarded as "inconsequential" if,

(A) The purchase price of the tangible personal property to the person rendering the professional services represents less than fifteen percent (15%) of the charge, billing, or statement rendered to the purchaser in connection with the transaction, and

(B) The tangible personal property transferred is not itself in a form which is subject to retail sale.

(2) In cases where the tangible personal property transferred is deemed inconsequential, the provider of the tangible personal property so transferred is deemed the ultimate consumer of such tangible personal property, and subject to all applicable taxes imposed by this Chapter upon such transfer.

(d) Examples:

(1) The transfer of paper embodying the result or work product of the services rendered by an attorney or certified public accountant is regarded as inconsequential to the charges for professional services.

(2) An appraisal report issued by an appraiser, reflecting such appraiser's efforts to appraise real estate, is regarded inconsequential.

(3) Use of a hair care product on a client's hair by a barber or beautician in connection with performing professional services is usually inconsequential. On the other hand, if the barber or beautician supplies the customer with a bottle of the product for the client's use thereafter and without the professional's assistance, the transfer of the bottle of hair care product is deemed not inconsequential.

(4) If a mortician properly segregates his professional services from other taxable activities on his bill (invoice, contract), his gross income would include only the income derived from the sale of tangible personal property (casket, cards, flowers, etc.) and rental, leasing, or licensing of real and tangible personal property. His charges for professional services (embalming, cosmetic work, etc.) would not be includable in gross income.

Reg. 3-5-460.5. RETAIL SALES: MONETIZED BULLION; NUMISMATIC VALUE OF COINS.

(a) "Monetized Bullion" means coins or other forms of money manufactured or minted from precious metals or other metals and issued as legal tender or a medium of exchange by or for any government authorized to do so.

(b) Any coin shall be considered to have been transferred or acquired primarily for its "Numismatic value" if the sale or acquisition price:

(1) Is equal to or greater than twice (2 times) the value of the metallic content of the coin as of the date of transfer or acquisition; and

(2) Is equal to or greater than twice (2 times) its face value, in the case of a coin which, at the time of transfer or acquisition, was legal tender or a medium of exchange of the government issuing or authorizing its issuance.

Reg. 3-5-460.6. ~~RETAIL SALES: CONSIGNMENT SALES:~~ REPEALED EFFECTIVE OCTOBER 1, 2019.

~~Sales of merchandise acquired on consignment are taxable as retail sales. In cases where the merchant is acting as an agent on behalf of another dealer, sales of the consigned merchandise are taxable to the principal, provided the merchant makes full disclosure to customers that he is acting only as an agent for the named principal. However, when the principal is not deemed to be a dealer, such sales are considered to be those of the merchant and are taxable to him.~~

Reg. 3-5-465.1. RETAIL SALES: REPAIR SERVICES~~:~~

(a) Fair market value of parts and labor charges. The Tax Collector may examine the reporting of all transactions covered by this Section to determine if an "arms-length" price is charged for the parts and materials. The applicable tax may not be avoided by pricing a part, which ordinarily sells to the customer at $10, at $5 and including the difference as "service" or "labor". In the absence of satisfactory evidence supplied by the taxpayer as to industry or business practice, the Tax Collector may use the cost of the part or materials to the taxpayer marked up by a reasonable profit, to estimate the gross income subject to tax.

(b) Notwithstanding Regulation 3-5-350.1(e),

(1) In the case where the taxpayer does not normally and regularly sell items of tangible personal property apart from a repair transaction, the taxpayer may determine the sale price of the tangible personal property transferred by means of a "computed charge". The "computed charge" shall be the sum of the cost of the item of tangible personal property transferred, plus a "reasonable markup." The "reasonable markup" shall be that amount needed to achieve a representative retail price for which such items of tangible personal property are normally sold at retail by comparable businesses within the State (not under circumstances involving the combination of such sale with the providing of repair services). The taxpayer shall have the initial responsibility of determining such reasonable markup, and providing to the Tax Collector, if requested, the basis for his determination.

(2) In the event that there is a disagreement between the Tax Collector and the taxpayer as to the proper determination of the "computed charges", the burden shall be upon the taxpayer to satisfy the Tax Collector, the Hearing Officer in the event of a hearing, or the court in any subsequent court action

involving an assessment, of the validity of the taxpayer's method of determination of such "computed charges". The determination by the Tax Collector as to the proper "computed charge" shall be considered valid, and shall be sustained unless it is proven by the taxpayer that such determination is arbitrary and unreasonable.

Reg. 3-5-465.2. RETAIL SALES: WARRANTY, MAINTENANCE, AND SIMILAR SERVICE CONTRACTS.

(a) Gross income from sales of warranty, maintenance, and service contracts is exempt from the tax imposed by Section 3-05-004-0460.

(b) Transfers of tangible personal property in connection with a service, warranty, guaranty, or maintenance agreement between a vendor and a vendee shall be subject to tax under Section 3-05-004-0460 only to the extent of gross income received from separately itemized charges made for the items of property transferred.

(c) The gross income derived from a maintenance insurance agreement, which agreement is entered into between the purchaser and any person other than the seller is not subject to tax imposed by Section 3-05-004-0460. If the provider of the maintenance insurance agreement pays for tangible personal property on behalf of the insured in the performance of the agreement, such sales are subject to all applicable taxes imposed by this Chapter.

(d) Charges for tangible personal property provided under the terms of a warranty, maintenance, or service contract exempted under Section 3-05-004-0465 are subject to tax as retail sales.

(e) However, gross income received by a dealer from a manufacturer for work performed under a manufacturer's warranty is not taxable under Section 3-05-004-0460.

Reg. 3-5-465.3. RETAIL SALES: SALE OF CONTAINERS, PAPER PRODUCTS, AND LABELS.

(a) The sale of a container or similar packaging material which contains personal property and which is transferred to the customer with the sale of the product is not taxable as a sale for resale. Examples of such nontaxable containers include but are not limited to:

(1) Packaging materials sold to a manufacturer of video equipment for containment of the product during shipment.

(2) Cellophane-type wrap sold to a meat department or butcher for containment of the individually wrapped or contained meat.

(3) Bags used to contain loose fungible goods such as fruits, vegetables, and other products sold in bulk, where such bags or containers are used to contain and measure the amount purchased by the customer.

(4) Shopping bags and similar merchandising bags sold to grocery stores, department stores or other retailers.

(5) Gift wrappings and gift boxes sold to department stores or other retailers.

(b) Sales of non-returnable or disposable paper (and similar products such as plastic or styrofoam) cups, lids, plates, bags, napkins, straws, knives, forks and other similar food accessories to a restaurant or others taxable under Section ~~3-5-455~~ 3-05-004-0455 for transfer by the restaurant to its customer to contain or facilitate the consumption of the food, drink or condiment are sales for resale and not taxable.

(c) Where a retailer imposes a charge for gift wrapping and the charge includes the container, paper, and other appropriate materials, the wrapping charge shall be considered a sale.

(d) Charges for returnable containers, where the charges are imposed on the customer, are subject to tax at the time of the transaction. A credit may be taken for the amount of refund after such refund is made.

(e) The sale of labels to a purchaser who affixes them to a primary container is a sale for resale and not taxable. Directional or instructional material included with products sold are considered to be part of the product and a sale for resale. However, the sale of items such as price tags, shipping tags, and advertising matter delivered to the customer in connection with the retail sale is taxable to the retailer as a retail sale to it, and is not exempt as a sale for resale.

Reg. 3-5-465.4. ~~RETAIL SALES: AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE~~ REPEALED EFFECTIVE OCTOBER 1, 2019.

~~"Aircraft acquired for use outside the state" means aircraft, navigational and communication instruments, and other accessories and related equipment sold to:~~

~~(a) Any foreign government for use by such government outside of this state.~~

~~(b) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subsection also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located~~

~~outside this state and the property will not be used in this state other than in removing the property from this state.~~

Reg. 3-5-470.1. TELECOMMUNICATION SERVICES~~:~~

(a) Gross income from the business activity of providing telecommunication services to consumers within this City shall not include:

(1) Charges for installation, maintenance, and repair of telecommunication equipment which are subject to the provisions of Sections 3-05-004-0415, 3-05-004-0416, or 3-05-004-0417 (construction contracting); 3-05-004-0445 (real property rental); 3-05-004-0450 (tangible personal property rental); or 3-05-004-0460 (retail sales); depending upon the nature of the work performed.

(2) Separately billed advertising charges which are subject to the provisions of Section 3-05-004-0405 or 3-05-004-0435.

(b) Mobile equipment. In cases where the customer is being provided telecommunication services to receiving/transmission equipment designed to be mobile in nature (for example, mobile telephones, portable hand-held two-way radios, paging devices, etc.), the provider shall, for the purposes of the tax imposed by this Section, determine whether such provider's customers are "within this City" as follows:

(1) By the billing address of the customer, provided that such address is a permanent residence or business location of the consumer within the State.

(2) In all other cases, the business location of the telecommunications provider.

Reg. 3-5-475.1. DISTINCTION BETWEEN TRANSPORTING FOR HIRE AND CERTAIN RELATED ACTIVITIES~~:~~

The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is deemed rental, leasing, or licensing for use of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Reg. 3-5-520.1. REPORTS MADE TO THE CITY~~:~~

A. Each taxpayer shall provide, as a minimum, all of the following when reporting taxes due as provided in this chapter:

1. Legal business name of the taxpayer or his agent.

2. Mailing address of the taxpayer.

3. City privilege license number of the taxpayer.

4. Period of time for which the report is intended.

5. For each category of income to which the taxpayer is subject, for the reporting period, as provided on the official City tax return:

a. All amounts subject to, excluded from, exempt from, or deductible from the tax imposed upon that category of business activity, summarized in total as "gross receipts" of that category of business activity.

b. The total amount claimed as excludable, exempted, or deducted from such "gross receipts", itemized as provided on the official City tax return, and summarized in total as "total deductions" for that category.

c. The difference between such "gross receipts" and "total deductions" as "net taxable" for that category.

d. The tax due and payable for that category.

6. That total amount subject to use tax, summarized as "net taxable," and the use tax due and payable for that reporting period.

7. Any excess tax collected which is due and payable.

8. Any claimed tax credits against taxes due and payable.

9. Total amount remitted with the return.

10. A statement verifying that the information provided on the return is accurate to the best of the preparer's knowledge. Such statement must be accompanied by a dated signature of the preparer, and also show the preparer's title or relationship to the taxpayer.

11. The tax collector may prescribe and will notify taxpayers of alternative methods for signing, subscribing or verifying any report or statement required to be filed, including, but not limited to, electronic signatures and/or security codes, and such methods shall have the same validity and consequence as the actual signature or written declaration of the taxpayer or other person required to sign, subscribe or verify the return, statement, or other document.

(Ord. No. 2004-25, Amended, 01/10/05; Ord. 2014-16, Amended, 07/15/2014)

Reg. 3-5-520.2. CHANGE OF METHOD OF REPORTING:

(a) Any taxpayer electing to change his reporting method shall be permitted to do so only upon filing a written request to the Tax Collector and after receiving written approval of the Tax Collector. The approval shall state the effective date of the change.

(b) The Tax Collector may postpone such approval to allow for examination of the records of the taxpayer and may further require that all tax liability be satisfied up to the effective date of the change.

(c) Failure of the taxpayer to notify the Tax Collector and await approval before changing the method of reporting will subject the taxpayer to interest and penalties if his original method of reporting would produce higher taxes due the City. When a person makes such change without the consent of the Tax Collector, the Tax Collector may audit his books and records to verify the tax liability as of the date of the change.

(d) Any taxpayer who has failed to indicate a choice of reporting method upon the application for a Privilege License shall be deemed to have chosen the accrual method of reporting.

Reg. 3-5-555.1. ADMINISTRATIVE REQUEST FOR THE ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS; SERVICE THEREOF; REMEDIES AND PENALTIES FOR FAILURE TO RESPOND:

(a) If a taxpayer refuses or fails to comply in whole or in part with a request to provide records authorized by Section 3-05-005-0555, the Tax Collector may issue his written Administrative Request which shall:

(1) Designate the individual to provide information.

(2) Describe specifically or generally the information to be provided, and any documents sought to be examined.

(3) State the date, time, and place in which the individual shall appear before the Tax Collector to provide the information and to produce the documents sought.

(4) Be directed to:

(A) Any director, officer, employee, agent, or representative of the person sought to be examined; or

(B) Any independent accountant, accounting firm, bookkeeping or financial service retained or employed by such person for any purpose connected with business activity subject to taxation; or

(C) Any other person who, in the opinion of the Tax Collector, has knowledge of facts bearing upon any tax liability of the person or taxpayer from whom information is sought.

(b) The failure of a taxpayer to comply with reasonable requests for records without good reason or cause may, in the exercise of judicial discretion by a court, be held to constitute a failure to exhaust administrative remedies.

Reg. 3-5-571.1. COLLECTION OF TAX IN JEOPARDY:

Evidence that collection of tax due is in jeopardy shall include documentation that:

(a) The taxpayer is going out of business.

(b) The taxpayer has no City privilege license or has no permanent business location in the State.

(c) The taxpayer has failed to timely pay any tax (or penalties and interest thereon) due to the City on three (3) or more occasions within the previous thirty-six (36) calendar months.

(d) The taxpayer has remitted payment by check, which has been dishonored.

(e) The taxpayer has failed to comply with a formal written request of the Tax Collector made pursuant to Regulation 3-5-555.1.

(Ord. 2008, Amended, 11/02/1999; Ord. 2007-28, Amended, 05/01/2007; Ord. 2013-26, Amended, 01/07/2014)

DIVISION 3-05-008
MISCELLANEOUS PROVISIONS

SECTIONS:

~~3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR AMEND CHAPTER *(Effective until July 1, 2020)*~~

3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR AMEND CHAPTER ~~*(Effective July 1, 2020)*~~

3-05-008-0801 TELEPHONE SERVICE LICENSE TAX

3-05-008-0802 RESERVED

3-05-008-0805 VALIDITY OF CHAPTER

3-05-008-0810 REPEAL

~~3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR AMEND CHAPTER (Effective until July 1, 2020)~~

~~A. Sunset Clause. The provisions of this chapter shall terminate and cease to be operative for the tax rates specified below at 11:59 p.m. on the date specified for each rate, unless extended pursuant to subsection (B) of this section:~~

~~1. For the one percent (1.0%) transaction privilege tax rate imposed by Ordinance No. 1491, as extended through November 4, 2024, by approval of a majority of the qualified electors voting in the general election held on May 18, 2010. Such tax revenues are unrestricted.~~

~~2. For the two percent (2.0%) transaction privilege tax rate imposed on lodging, restaurant and lounge businesses ("BBB tax"), by Ordinance No. 1532, as extended through March 31, 2028, by approval of a majority of the qualified electors voting in the general election held on May 18, 2010. Such tax revenues shall be used as provided for in Chapter 3-06, Hospitality Industry Tax Revenues.~~

~~3. For the eight-hundredths percent (0.08%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. Such tax revenues shall be used for "Safe-to-School and Other Pedestrian and Bike Projects" (Proposition 400) as described in the ordinance.~~

~~4. For the sixteen-hundredths percent (0.16%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. Such tax revenues shall be used for "Fourth Street Railroad Overpass" to Route 66 (Proposition 401A) as described in the ordinance.~~

~~5. For the one hundred seventy-five thousandths percent (0.175%) transaction privilege tax rate imposed by Ordinance No. 2000-14, as extended in Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for "Transit Improvements" (Proposition 402) as described in Ordinance No. 2000-14 and "Transit" (Proposition 401) as described in Ordinance No. 2008-05.~~

~~6. For the one hundred eighty-six thousandths percent (0.186%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. Such tax revenues shall be used for "Traffic Flow and Safety Improvements" (Proposition 403) as described in the ordinance.~~

~~7. For the two hundredths percent (0.02%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for "Hybrid Vehicles and Transit System Capital" (Proposition 402) as described in the ordinance.~~

~~8. For the two hundredths percent (0.02%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for transit "Service Between Downtown and the Woodlands Village Areas" through and within the Northern Arizona University campus (Proposition 403) as described in the ordinance.~~

~~9. For the four hundredths percent (0.04%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used to "Support Mountain Line Bus Service in Areas Underserved or Not Served" (Proposition 404) as described in the ordinance.~~

~~10. For the four hundredths percent (0.04%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for "More Frequent Service on Some Existing Bus Routes" (Proposition 405) as described in the ordinance.~~

~~11. For the thirty-three hundredths percent (0.33%) transaction privilege tax rate imposed by Ordinance No. 2014-34, December 31, 2034. Such tax revenues shall be used for "Road Repair and Street Safety Initiative" (Proposition 406) as described in the ordinance.~~

~~12. For the twenty-three hundredths percent (0.23%) transaction privilege tax rate approved by a majority of the qualified electors voting in the November 6, 2018, general election, codified by Ordinance No. 2019-01, for the twenty (20) year period of July 1, 2019, through June 30, 2039. Such tax revenues shall be used to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian, bicycle, and street connections, per the "Lone Tree Overpass Sales Tax" (Proposition 420), as described in the ordinance.~~

~~B. Automatic Extension upon Electors' Approval. The authority to levy each of the tax rates specified in subsection (A) of this section shall be subject to approval by a majority of the qualified electors voting in a regularly scheduled general election. Such approval shall constitute an automatic extension of this chapter for however long the qualified electors approve such extension at the respective tax rate approved without further action by the City Council.~~

~~C. Authority to Amend. The Council may amend this chapter as it may deem necessary with the exception of the rates or the effective term of this chapter.~~

~~(Ord. 2000-14, Amended, 06/06/2000; Ord. 2008-05, Amended, 01/15/2008; Ord. 2014-16, Renumbered, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019. Formerly 3-05-006-0600)~~

3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR AMEND CHAPTER ~~(Effective July 1, 2020)~~

A. Sunset Clause. The provisions of this chapter shall terminate and cease to be operative for the tax rates specified below at 11:59 p.m. on the date specified for each rate, unless extended pursuant to subsection (B) of this section:

1. For the one percent (1.0%) transaction privilege tax rate ORIGINALLY imposed by Ordinance No. 1491~~, as~~ AND extended through JUNE 30, 2035 ~~November 4, 2024~~, by approval of a majority of the qualified electors voting in the general election held on NOVEMBER 3, 2020 (PROPOSITION 436) ~~May 18, 2010~~. Such tax revenues are unrestricted. THIS SECTION IS EFFECTIVE NOVEMBER 5, 2024.

2. For the two percent (2.0%) transaction privilege tax rate ORIGINALLY imposed on lodging, restaurant and lounge businesses ("BBB tax"), by Ordinance No. 1532, AND ~~as~~ extended through JUNE 30, 2043 ~~March 31, 2028~~, by approval of a majority of the qualified electors voting in the general election held on NOVEMBER 5, 2024 (PROPOSITION 487) ~~May 18, 2010~~. Such tax revenues shall be used as provided for in Chapter 3-06, Hospitality Industry Tax Revenues.

3. For the thirty-three hundredths percent (0.33%) transaction privilege tax rate imposed by Ordinance No. 2014-34, December 31, 2034. Such tax revenues shall be used for "Road Repair and Street Safety Initiative" (Proposition 406) as described in the ordinance.

4. For the twenty-three hundredths percent (0.23%) transaction privilege tax rate approved by a majority of the qualified electors voting in the November 6, 2018, general election, codified by Ordinance No. 2019-01, for the twenty (20) year period of July 1, 2019, through June 30, 2039. Such tax revenues shall be used to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian bicycle, and street connections, per the "Lone Tree Overpass Sales Tax" (Proposition 420), as described in the ordinance.

5. For the twenty-nine hundredths and five thousandths percent (0.295%) transaction privilege tax rate extended by a majority of the qualified electors voting in the November 8, 2016, election, codified by Ordinance No. 2019-01, through June 30, 2030, such tax revenues shall be used to pay for the costs of acquiring, constructing, improving, operating, and maintaining equipment and facilities for a public transit system within the City of Flagstaff, per the "Transit Tax Levy" (Proposition 411) as described in the ordinance. THIS TRANSACTION PRIVILEGE TAX RATE SHALL APPLY THROUGH JUNE 30, 2025.

6. FOR THE FIVE TENTHS OF A PERCENT (0.500%) TRANSACTION PRIVILEGE TAX RATE EXTENDED AND INCREASED BY APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS VOTING IN THE NOVEMBER 5, 2024, ELECTION, CODIFIED BY ORDINANCE NO. 2025-XX EFFECTIVE JULY 1, 2025, THROUGH JUNE 30, 2040, SUCH TAX REVENUES SHALL BE USED TO PAY FOR THE PURPOSES OF PUBLIC TRANSIT WITHIN THE CITY OF FLAGSTAFF, PER THE "TRANSIT TAX LEVY" (PROPOSITION 488).

~~6~~7. For the forty-two hundredths and six thousandths percent (0.426%) transaction privilege tax rate extended by a majority of the qualified electors voting in the November 6, 2018, election, codified by Ordinance No. 2019-01, for the twenty-one (21) year period commencing July 1, 2020, and continuing through June 30, 2041. Such tax revenues shall be used to pay for roadway, pedestrian, bicycle and safety improvements, per the "Transportation Sales Tax" (Proposition 419), as described in the ordinance.

B. Automatic Extension upon Electors' Approval. The authority to levy each of the tax rates specified in subsection (A) of this section shall be subject to approval by a majority of the qualified electors voting in a regularly scheduled general election. Such approval shall constitute an automatic extension of this chapter for however long the qualified electors approve such extension at the respective tax rate approved without further action by the City Council.

C. Authority to Amend. The Council may amend this chapter as it may deem necessary with the exception of the rates or the effective term of this chapter. (ORD. 1491, ORD. 1532, Ord. 2000-14, Amended, 06/06/2000; Ord. 2008-05, Amended, 01/15/2008; Ord. 2014-16, Renumbered, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019. Formerly 3-05-006-0600)

3-05-008-0801 TELEPHONE SERVICE LICENSE TAX

Telephone Service Providers. An annual license tax of two percent (2%) shall be paid on the gross proceeds of all sales of telephone services by any provider who uses any City right-of-way. Said license tax shall be paid to the City at the end of each quarter. Gross proceeds of all sales shall include business done exclusively within the City and the State of Arizona, and will exclude any business done to or from points outside the State and telephone services provided to all U.S. governmental units.[1]

(Ord. 2018-22, Enacted, 06/19/2018)

3-05-008-0802 RESERVED

3-05-008-0805 VALIDITY OF CHAPTER

A. If any section, subsection, sentence, clause, phrase or portion of this chapter 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 of this section.

(Ord. 1593, 12-6-88; Ord. 2014-16, Renumbered, 07/15/2014. Formerly 3-05-006-0605)

3-05-008-0810 REPEAL

A. All ordinances or parts of ordinances, including but not limited to Ordinance No. 1333, which conflict with the provisions of this chapter are hereby repealed.

B. Subsection A of this section shall be inoperable in the event that the ordinance codified in this chapter is defeated by referendum.

(Ord. 1491, 6-16-87; Ord. 2014-16, Renumbered, 07/15/2014. Formerly 3-05-006-0610)

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[1] This voter-approved tax was adopted in 1962, predates the 1987 Model City Tax Code, is separately imposed, and was previously codified in Section 3-01-001-0002, License Taxes.

ORDINANCE NO. 2025-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, BY ADOPTING THE "*2025 CITY TAX CODE AMENDMENTS*" AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK RELATING TO CODIFICATION OF VOTER APPROVED SALES TAX RATES AND MODEL CITY TAX CODE UPDATES, AND INCREASING THE USE TAX RATE TO MATCH SALES TAX RATES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Charter, Article VI, Section 2(b) provides that the City Council shall have the power to levy a transaction privilege tax subject to approval by a majority of the qualified electors voting in the regularly scheduled General Election;

WHEREAS, the City of Flagstaff has adopted the Model City Tax Code to provide for uniform treatment of transaction privilege and use taxes (Chapter 3-05, Privilege and Excise Taxes, of the City Code, hereafter referred to as the "City Tax Code");

WHEREAS, on November 3, 2020, a majority of the City qualified electors voting in the general election approved Proposition 436, a continuation of a one percent (1%) local transaction privilege tax rate through June 30, 2035;

WHEREAS, on November 5, 2024 a majority of the City qualified electors voting in the general election approved Proposition 487, a continuation of an additional two percent (2%) local transaction privilege tax rate on hotels, restaurants and bars, through June 30, 2043 (also known as the bed, board, and beverage or "BBB tax");

WHEREAS, on November 5, 2024 a majority of the City qualified electors voting in the general election approved Proposition 488, a continuation of and increase of a local transaction privilege tax rate from twenty-nine hundredths and five thousandths percent (0.295%) to five tenths of a percent (0.500%) effective July 1, 2025 through June 30, 2040 for purposes of public transit (also known as the "transit tax levy");

WHEREAS, the City desires to update the City Tax Code to conform with City of Flagstaff voter mandates, and to conform with changes to the Model City Tax Code as maintained by the Arizona Department of Revenue.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General

The Flagstaff City Code, Title 3, Business Regulations, Chapter 3-05, *Privilege and Excise Taxes*,

is hereby amended by adoption of the amendments set forth in that document known as "*2025 City Tax Code Amendments*," declared a public record by Resolution No. 2025-25 and on file with the City Clerk.

The City Treasurer or designee is hereby directed to immediately provide an executed copy of Ordinance No. 2025-11 and Resolution No. 2025-25 to the Arizona Department of Revenue ("ADOR") for administration of local taxes.

SECTION 2. Use of Tax Revenues.

Tax revenues from the continuation of the one percent (1%) local transaction privilege tax rate approved by a majority of the qualified electors of the City voting in the regularly scheduled General Election on November 3, 2020 (who voted "yes" on Ballot Question/Proposition 436) shall be used for:

- General fund purposes (unrestricted).

Tax revenues generated from the continuation of the additional two percent (2%) local transaction privilege tax rate on hotels, restaurants and bars (also known as the bed, board, and beverage or "BBB tax") approved by a majority of the qualified electors of the City voting in the regularly scheduled General Election on November 5, 2024 (who voted "yes" on Ballot Question/Proposition 487) shall be used for:

- Hospitality purposes as set forth in the City Code, Chapter 3-06 Hospitality Industry Tax Revenues, as may be amended.

Tax revenues generated from the continuation of and increase of the five tenths percent (0.500%) transaction privilege tax rate approved by a majority of the qualified electors of the City voting in the regularly scheduled General Election on November 5, 2024 (who voted "yes" on Ballot Question/Proposition 488), shall be used for:

- Public transit purposes.

SECTION 3. Penalties.

Any person convicted of a violation of this ordinance is guilty of a misdemeanor and shall be fined a sum not to exceed two thousand five hundred dollars ($2,500.00) and may be sentenced to confinement in the Coconino County jail for a period not to exceed six (6) months for any one offense. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 4. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the

decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 7. Effective Date

This Ordinance shall be effective on July 1, 2025.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of May, 2025.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

City Tax Code Changes

Public Hearing
May 6, 2025

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

City Tax Code Updates

Overview of Changes

- Incorporate the local Transaction Privilege Tax (TPT) rate changes approved by Flagstaff voters
- Increase the Use Tax rate to align with the local TPT rate
- Update City Tax Code to conform with the Model City Tax Code (MCTC) – required by law

City Tax Code Updates

Voter-Approved TPT Rate Changes

- November 23, 2020 General/Special Election
  - Voters approve to extend the 1% local tax rate used for general funding purposes to June 30, 2043
    - (Revenues from other local tax rates are dedicated for specific purposes)
- November 22, 2024 General/Special Election
  - Voters approved to extend the additional 2% local tax rate on the Hotel and Restaurant industries (also known as the bed, board, and beverage or BBB tax), which is used for funding beautification, arts, sciences, parks and recreation, and tourism to June 30, 2043
  - Voters approved to increase the local tax rate 0.5% for funding public transit and to extend the Transit tax to June 30, 2040

City Tax Code Updates

Rate Changes

- Effective July 1, 2025, the City TPT rate will be 2.486%
  - BBB categories are 4.2486%
- The City has aligned the Use Tax rate with the TPT rate
  - Use Tax is a tax on purchase of item outside the City but used in the City, paid if tax for purchase outside the City was less
  - Current Use Tax rate is 2.281%
  - Staff is proposing to increase Use Tax rate to 2.486%
    - Provides a level playing field for local retailers, an increase in revenues

City Tax Code Updates

Model City Tax Code Changes

- Numerous changes have already been implemented by Arizona Department of Revenue (ADOR), call ADOR with questions

- Many clarifications
  - E.g. sales to Native Americans are exempt from local tax only if solicitation, delivery, and payment all occur on reservation

- Changes to the local TPT on construction contracting, speculative builders, per state laws

City Tax Code Updates

Model City Tax Code Changes

- Many new TPT exemptions and tax deductions
  - To benefit specific industries (e.g. computer data centers, livestock and poultry, agriculture, forestry wood products, coal, natural gas vehicles, pro-baseball and golf, rental of real property, recycling of landfill waste, construction)
  - To assist education (e.g. software sold to test student learning)
  - To help the needy, indigent, or persons with disabilities (e.g. sales to qualifying health care organizations, nonprofits that provide apartment housing for low-income elderly)

City Tax Code Updates

Model City Tax Code Changes

- Prohibits higher TPT rate junk food (City does not tax food)

- Adds new Use Tax exemptions to match new TPT exemptions

- Adds Use Tax exemptions specific to Use Tax
  - E.g. single trip use fuel tax permit, purchase of personal property less than $200 outside the U.S. for personal use

City Tax Code Updates

Model City Tax Code Changes

- Filing requirements
  - MCTC allows for annual filing if tax liability is less than $2,000, quarterly if liability is between $2,000-8,000, otherwise monthly

- Taxpayer bill of rights (Ariz. Rev. Statutes Section 42-2051 et seq.)
  - Whole litany of rights, dating back to 1986, applies to all interactions with ADOR
  - Taxpayer assistance office
  - ADOR shall abate taxes and penalties if failure to pay taxes is due to reasonable cause, not willful neglect (this is not new)

City Tax Code Updates

TEAM FLAGSTAFF
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QUESTIONS/COMMENTS

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Jenny Niemann, Climate Section Director

Co-Submitter: Danae Presler

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Ordinance No. 2025-10: An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 7 Health and Sanitation, Chapter 4 Municipal Solid Waste Collection Service, Section 07-04-001-0010 Fees, to add a new fee for public use of city-owned electric vehicle charging stations; providing for penalties, repeal of conflicting ordinances, severability, providing for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:

1) Hold the Public Hearing
2) Read Ordinance No. 2025-10 by title only for the first time
3) City Clerk reads Ordinance No. 2025-10 by title only (if approved above)

At the May 20, 2025 Council Meeting:

4) Read Ordinance No. 2025-10 by title only for the final time
5) City Clerk reads Ordinance No. 2025-10 by title only (if approved above)
6) Adopt Ordinance No. 2025-10

Executive Summary:

The City of Flagstaff currently provides free electric vehicle charging to the public at 18 charging stations across four City facilities: City Hall, the Visitor's Center, the Aquaplex, and the Flagstaff Pulliam Airport. As demand has grown and electricity rates have increased, the costs to the City for providing this service have risen to approximately $62,000 annually. Furthermore, vehicles are often "idling" at the City's charging stations -- meaning they remain plugged in after the vehicle's battery is fully charged, preventing other vehicles from charging. On average, 25% of the time that a vehicle is plugged in at a City-owned station, it is fully charged and blocking the space.

Following direction from the City Council, staff developed the proposed Electric Vehicle Charging Fees to recover costs of providing public electric vehicle charging and encourage vehicles to be moved once fully charged, or in the case of the Airport, once the three-hour time limit has been reached. Notice of the proposed fees has been posted on the City website pursuant to A.R.S. Section 9-499.15.

Staff is requesting that a two-part fee structure be adopted for public use of City-owned electric vehicle charging stations.

1. While a vehicle is charging, the recommended fee is equal to the cost of energy consumed per kilowatt hour (kWh) plus 10%--this is equal to $0.39 per kWh at today's energy rates. This fee ensures that the cost of providing electricity is fully recovered, which is the City's largest expense in providing this service to the public. It also accounts for the 10% fee assessed to the City by the vendor for using the billing software.
2. Staff also recommends implementing an idling fee of $0.07 cents per minute for Downtown locations (e.g., City Hall and Visitor's Center), $0.07 cents per minute for the Airport (up to $100.00), and $0.04 cents per minute at other City locations (e.g., the Aquaplex). The idling fee is intended to motivate proper

charging etiquette and support cost recovery for maintenance, software, and indirect costs.

Financial Impact:
The proposed fees will recover costs of providing electric vehicle charging to the public at City facilities.

Policy Impact:
None

Previous Council Decision or Community Discussion:
Yes. At the December 19, 2023, City Council Meeting, the City Council advised staff to develop a proposed fee to recover the costs of providing electric vehicle charging to the public. An update was provided to the City Council at the February 2025 budget retreat, where Council confirmed this direction.

Options and Alternatives to Recommended Action:
â€¢ Adopt the Ordinance as recommended by staff.
â€¢ Amend the Ordinance for a different fee .
â€¢ Do not adopt the Ordinance and continue to provide electric vehicle charging to the public as a free service.

Connection to PBB Priorities and Objectives:
This action aligns with the following PBB Priorities and Objectives:

- High Performing Governance - maintain the organization's fiscal stability through strong financial policies and best practices.
- Sustainable and Innovative Infrastructure: Deliver outstanding services to residents through a healthy, well-maintained infrastructure system.

Connection to Regional Plan:
Policy T.3.2. Promote transportation systems that reduce the use of fossil fuels and eventually replace with carbon neutral alternatives.
Policy E&C.2.2. Promote investments that create a more connected and efficient community, decrease emissions from transportation and building energy, and strengthen climate resiliency.

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

Connection to 10-Year Housing Plan:
N/A

Attachments: Ord. 2025-10
EV Charging Fee Report
Notice of Proposed EV Charging Rates and Fees_February 2025
Presentation

ORDINANCE NO. 2025-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 7 HEALTH AND SANITATION, CHAPTER 4 MUNICIPAL SOLID WASTE COLLECTION SERVICE, SECTION 07-04-001-0010 FEES TO ADD A NEW FEE FOR PUBLIC USE OF CITY-OWNED ELECTRIC VEHICLE CHARGING STATIONS; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, PROVIDING FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City, as a customer of Arizona Public Service Company offers electric vehicle charging stations on City property for public use; and

WHEREAS, the City may enter into contracts for use of its property, pursuant to the Flagstaff City Charter Article I Section 3, may regulate parking pursuant to A.R.S. § 28-627(A), and is subject to Federal Aviation Administration grant assurance no. 24 requiring the City to charge fees for use of Airport property and facilities in a manner so as to make the Airport as self-sustaining as possible;

WHEREAS, the City desires to recover its costs in allowing public use of its electric vehicle charging stations (and associated parking spaces);

WHEREAS, the City has published and distributed notices of the proposed electric vehicle charging rates or fees pursuant to A.R.S. § 9-499.15.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Title 7 Health and Sanitation, Chapter 4 Municipal Solid Waste Collection Service, Section 07-04-001-0010 Fees is hereby amended by adding a new subsection J to read as follows (deleted text is shown as stricken, and new text is shown as red capitalized text):

07-04-001-0010 FEES

The rates and charges for ~~solid waste and recycling collection~~ services outlined below are based on the cost of the services provided. The Director or designee may establish special rates or charges when required by unusual, unique or special needs, or to provide discounts for high-volume customers when collection efficiencies are realized.

* * *

J. ELECTRIC VEHICLE CHARGING FEES:

1. ANY PERSON USING A CITY-OWNED ELECTRIC VEHICLE (EV) CHARGING STATION (AND ASSOCIATED PARKING SPACE) FOR ACTIVELY CHARGING AND/OR IDLING, SHALL PAY THE FOLLOWING FEES AS A CONDITION OF SUCH USE:

FEE WHILE CHARGING		COST OF ENERGY PER KILOWATT HOUR (KWH) + 10%
FEE WHILE IDLING		
	DOWNTOWN LOCATIONS	$0.07 CENTS PER MINUTE ($4.20 PER HOUR)
	AIRPORT LOCATIONS	$0.07 CENTS PER MINUTE ($4.20 PER HOUR) AFTER 3-HOUR LIMIT (UP TO $100.00)
	ALL OTHER CITY LOCATIONS	$0.04 CENTS PER MINUTE ($2.40 PER HOUR)

2. FOR PURPOSES OF THIS SUBSECTION J, THE FOLLOWING TERMS ARE DEFINED AS FOLLOWS:
   a. "DOWNTOWN LOCATIONS" MEANS THE CITY HALL PARKING LOT, THE PUBLIC LIBRARY PARKING LOT ON W. ASPEN AVENUE, THE WHEELER PARK PARKING LOT, THE CITY VISITOR CENTER PARKING LOT ON ROUTE 66, AND ANY OTHER CITY EV CHARGING STATION LOCATION WITHIN THE FLAGSTAFF DOWNTOWN BUSINESS IMPROVEMENT AND REVITALIZATION DISTRICT (A SPECIAL TAXING DISTRICT).
   b. "IDLING" MEANS THAT A VEHICLE CONTINUES TO USE THE ELECTRIC VEHICLE CHARGING PARKING SPACE AFTER THE VEHICLE'S BATTERY IS FULLY CHARGED OR AFTER THE POSTED TIME LIMIT.
   c. "THE COST OF ENERGY PER KILOWATT HOUR (KWH)" MEANS THE COST ARIZONA PUBLIC SERVICE COMPANY CHARGES TO THE CITY FOR ELECTRICITY PER KWH, INCLUDING BUT NOT LIMITED TO ALL SERVICE CHARGES, ADJUSTORS, AND TAXES AND FEES BILLED BY APS. SUCH COST SHALL BE CALCULATED ON A PERIODIC BASIS BY THE DIRECTOR OR DESIGNEE AS THE TOTAL APS BILL FOR PUBLIC ELECTRIC VEHICLE CHARGING STATION ACCOUNTS DIVIDED BY THE TOTAL ENERGY (KWH) CONSUMED.

* * * *

SECTION 2. Penalties

Any person found in violation of this ordinance shall be guilty of a civil infraction and shall be fined a sum not to exceed five hundred dollars ($500.00). Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 4. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 6. Effective Date

This Ordinance shall be effective July 1, 2025 following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of May, 2025.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

Electric Vehicle Charging Fees Analysis – 2025

Executive Summary

The City Management Services Division and Sustainability Division have prepared a fee analysis for providing electric vehicle charging to the public. The proposed fee structure is intended to recover the cost of providing electric vehicle charging at City-owned stations and encourage vehicles to be moved once charged.

Staff plans to propose the Electric Vehicle Charging Fees to the City Council at the May 6, 2025, and May 20, 2025, Council meetings. It is anticipated that an Ordinance will be adopted with the new fee at the May 20, 2025, Council meeting with an effective date of July 1, 2025.

Electric Vehicle Charging Fees Proposal

Staff Proposal

The City of Flagstaff currently provides free electric vehicle charging to the public at 18 City-owned charging stations. As demand has grown and electricity rates have increased, the costs of providing this service have increased. Furthermore, vehicles are often "idling" at the City's charging stations – meaning they remain plugged in after the vehicle battery is fully charged, preventing other vehicles from charging. On average, 25% of the time a vehicle is at a City-owned station, the vehicle is fully charged and blocking the space. There is a higher prevalence of idling at the Flagstaff Pulliam Airport, despite having implemented a 3-hour limit at the site.

Following direction from the City Council, staff developed Electric Vehicle Charging Fees to address the cost considerations of managing the public electric vehicle charging service and encourage vehicles to be moved once charged. To develop the proposed fees, staff evaluated the operational expenses and indirect cost allocation for the service.

Cost of Service	Annual Costs
Electricity	$50,000
Software Expenses	$4,000
Maintenance Expenses	$2,500
Indirect Costs	$5,500
Total Cost of Service	**$62,000**

A two-part fee structure is recommended to achieve cost recovery and encourage vehicles to be moved once fully charged or, in the case of the Airport, once the time limit has been reached.

Fee While Charging		Cost of energy per kilowatt hour (kWh) + 10%* *(Current rate: $0.39 per kWh)*
Fee While Idling *(After fully charged or over the time limit)*		
	Downtown	$1.00 per 15-min
	Airport	$1.00 per 15-min after 3-hour limit (up to $100.00)
	Other	$2.00 per hour

*The cost of energy shall be calculated as the total APS bill for public electric vehicle charging station accounts divided by the total energy (kWh) consumed for the most recent year or most recent quarter following an APS rate increase. The additional 10% is the fee assessed to the City by the vendor for using the billing software.

This fee structure ensures the full cost of energy consumed by the service is recovered, which is the City's largest expense in providing electric vehicle charging to the public. The use of an idling fee is intended to motivate good charging etiquette. The City anticipates that these fees will reduce idling but not eliminate it. The revenue from the idling fee will be used to recover expenses for maintenance, software, and indirect costs of providing electric vehicle charging to the public. If revenue exceeds the costs of providing the service, the monies will be used to support the installation of additional public charging stations.

Lastly, staff evaluated market rates and found that the proposed Electric Vehicle Charging Fees are in line with market rates for this type of public electric vehicle charging in the region and across Arizona.

The City Council may approve, disapprove, or modify the proposed fees during its adoption.

NOTICE OF PROPOSED NEW RATES OR FEES

RELATED TO ELECTIC VEHICLE CHARGING RATES AND FEES

Pursuant to A.R.S. § 9-499.15, the City of Flagstaff hereby gives notice it proposes to amend the City Code to adopt new rates or fees related to Electric Vehicle Charging Rates and Fees.

The City Council will consider whether to amend the City Code to adopt new rates or fees at a public meeting, to be held:

Tuesday, May 6, 2025 at 3:00 p.m.
City of Flagstaff Council Chambers
211 W. Aspen Avenue
Flagstaff, Arizona 86001

A first reading of an ordinance to approve the changes may occur on this date. A second reading of an ordinance to approve the changes may occur at the next public meeting of the City Council on Tuesday, May 20, 2025 at 3:00 p.m. in City Council Chambers.

The City Council may approve, disapprove, or modify the proposed rates or fees at that time.

A written report that supports the rates or fees is provided below.

Please contact Danae Presler, Climate Program Manager, (928) 213-2141 if you have any questions.

Submitted by: Rick Tadder, Management Services Director

This notice is posted on the homepage of the City Website on this 27th day of February 2025.

Posted by: Sarah Langly, Public Affairs Director

Link: Electric Vehicle Charging Rates and Fees Report

Electric Vehicle Charging Fees

May 6, 2025

TEAM FLAGSTAFF

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Background

- The City has provided free electric vehicle (EV) charging to the public at 18 stations, since 2020.
- The 18 EV charging stations were mostly paid for through an APS grant program.
- The program now costs the City $60,000+ annually
- In 2024, the City Council advised implementing a fee for public to recover costs, while encouraging behavior change
- February 2025, staff presented rate proposals during the Council retreat

Cost Recovery Fee Structure

While Charging	Cost of the energy consumed per kilowatt hour (kWh) + 10%* *Current rate: $0.39 / kWh at today's energy rate.*
Idling Fee (after fully charged)	$1.05 per 15-min for Downtown stations ($0.07 per minute) $1.05 per 15-min for Airport after 3-hour limit ($0.07 per minute) *Up to $100 maximum charge* $2.40 per hour for Aquaplex ($0.04 per minute)

*The cost of providing energy is calculated as the total APS bill for public electric vehicle charger accounts divided by the total energy (kWh) consumed. Cost shall be calculated on a periodic basis by the Director or designee.

Example of Charging Fees in Action

Estimated costs for FY25-26:

- **$68,000**

Estimated revenue:

- **$47,000 to $85,000**
- **Depends on idling behaviors**

What this means to the customer

Charging for 4 hours	$ 10.14
Idling for 1 hour Downtown	$ 4.20
	$ 14.34

For ~100 miles of charge

Comparable to gas at $2.75 a gallon

Staff Recommendation: Adopt ordinance 2025-10 to enact EV Charging Fees.

- If adopted, fees would be charged beginning July 1, 2025.
- Staff will conduct engagement to ensure all station users are aware of this change.

Thank you!

Danae Presler
Climate Manager
Danae.Presler@FlagstaffAZ.gov

TEAM FLAGSTAFF
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CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Robert Wallace, Open Space Supervisor

Co-Submitter: Rebecca Sayers

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Resolution No. 2025-20: A resolution of the Flagstaff City Council naming the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve the "Jack Welch Memorial Bridge."

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2025-20 by title only
2. City Clerk reads Resolution No. 2025-20 by title only (if approved above)
3. Adopt Resolution No. 2025-20

Executive Summary:

Desired Outcome:

Jack Welch contributed in a definitive way to the betterment of the Flagstaff community and its residents, and the community wishes to honor his memory by naming the Rio de Flag Bridge located at the Picture Canyon Natural and Cultural Preserve the Jack Welch Memorial Bridge.

Open Spaces Commission Recommendation:

On March 24, 2025, the Open Spaces Commission unanimously recommended that the City Council consider adopting the resolution naming the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve the "Jack Welch Memorial Bridge."

Executive Summary:

- The Flagstaff City Council established a policy for the naming of City of Flagstaff facilities in Resolution No. 2001-73, as amended by Resolution No. 2010-72.
- The proposal to name the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve the Jack Welch Memorial Bridge will meet the requirements of the aforementioned resolutions on July 21, 2025, which is two years from the date of Mr. Welch's passing.
- The Open Spaces Commission recommends that the Rio de Flag Bridge be named the Jack Welch Memorial Bridge.

Naming the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve the Jack Welch Memorial Bridge was presented as a potential project to the Open Spaces Commission, and the commission gave its unanimous support. The Commission shared the enthusiasm for recognizing Mr. Jack Welch, who was a devoted steward of Picture Canyon and a true champion for open spaces in Flagstaff. His contributions to preserving and enhancing this natural and cultural resource are immeasurable. As an original Picture Canyon Working Group member, Jack played a key role in reclaiming the area from its past as an illegal dump site and preventing development that could have threatened its ecological and historical integrity. He mobilized the community, encouraging countless residents to advocate for Picture Canyon's preservation.

Jack's dedication extended beyond advocacy. He actively engaged in education and outreach, co-founding

the Picture Canyon Education Committee. His passion for history and stewardship was evident in his presentations during Open Space Steward trainings and in the numerous guided hikes he led, often collaborating with others to share Picture Canyon's unique values. Jack could often be found tabling at Picture Canyon events, picking up trash, and ensuring educational brochures were stocked for visitors. Importantly, he also recognized the Indigenous history of the site and supported efforts to share these stories.

Financial Impact:
Project Name: Jack Welch Memorial Bridge
Cost: The city incurs no cost for sign construction. PROSE will partner with the citizen group to install the sign at the Picture Canyon Preserve.
Account Number Budgeted: n/a
Funding Source: private donations

Policy Impact:
There is no policy impact.

Previous Council Decision or Community Discussion:
On October 01, 2024, the Flagstaff City Council was presented with a Future Agenda Item Request (F.A.I.R.): A Citizens' Petition titled "Jack Welch Memorial Bridge at Picture Canyon." There was requisite Council support to advance the item to a future agenda for discussion.

Options and Alternatives to Recommended Action:
Option A: Adopt the resolution of the Flagstaff City Council naming the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve the "Jack Welch Memorial Bridge."
Option B: Choose not to adopt the resolution, thus not naming the Rio de Flag Bridge after Mr. Jack Welch.

Connection to PBB Priorities and Objectives:
Mr. Welch was a strong supporter of many PBB priorities and objectives, including Inclusive and Engaged Community, Livable Community, and Environmental Stewardship.

Connection to Regional Plan:
There is no connection to the Regional Plan.

Connection to Carbon Neutrality Plan:
There is no connection to the Carbon Neutrality Plan

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

Attachments: Res. 2025-20
Draft Naming Plaque
Jack Welch Memorial Bridge Location Map
Citizen Petition Request_ Jack Welch Memorial Bridge
Presentation

RESOLUTION NO. 2025-20

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL NAMING THE RIO DE FLAG BRIDGE AT THE PICTURE CANYON NATURAL AND CULTURAL PRESERVE THE "JACK WELCH MEMORIAL BRIDGE"

RECITALS:

WHEREAS, Jack Welch contributed in a definitive way to the betterment of the Flagstaff community and its citizens, and the community wishes to honor his memory by naming the Rio de Flag Bridge located at the Picture Canyon Natural and Cultural Preserve the Jack Welch Memorial Bridge; and

WHEREAS, the Flagstaff City Council established a policy for the naming of City of Flagstaff facilities in Resolution No. 2001-73, as amended by Resolution No. 2010-72; and

WHEREAS, Resolution No. 2010-72 requires the person to have been deceased for two years; and

WHEREAS, Mr. Jack Welch passed on Friday, July 21, 2023, and the proposal to name the bridge the Jack Welch Memorial Bridge meets the requirements of the aforementioned resolutions on July 21, 2025, and therefore naming the bridge will go into effect on July 21, 2025, thereby meeting the requirements of the policy; and

WHEREAS, the Open Spaces Commission recommends that the bridge be named the Jack Welch Memorial Bridge.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1.

That the Rio de Flag Bridge at the Picture Canyon Natural and Cultural Preserve, located at 3920 North El Paso Flagstaff Road, be named the "Jack Welch Memorial Bridge", taking effect on July 21, 2025, in honor of Mr. Jack Welch's contributions to the community.

SECTION 2.

This resolution shall become effective on July 21, 2025.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of May 2025.

_____

MAYOR

ATTEST:

_____
CITY CLERK

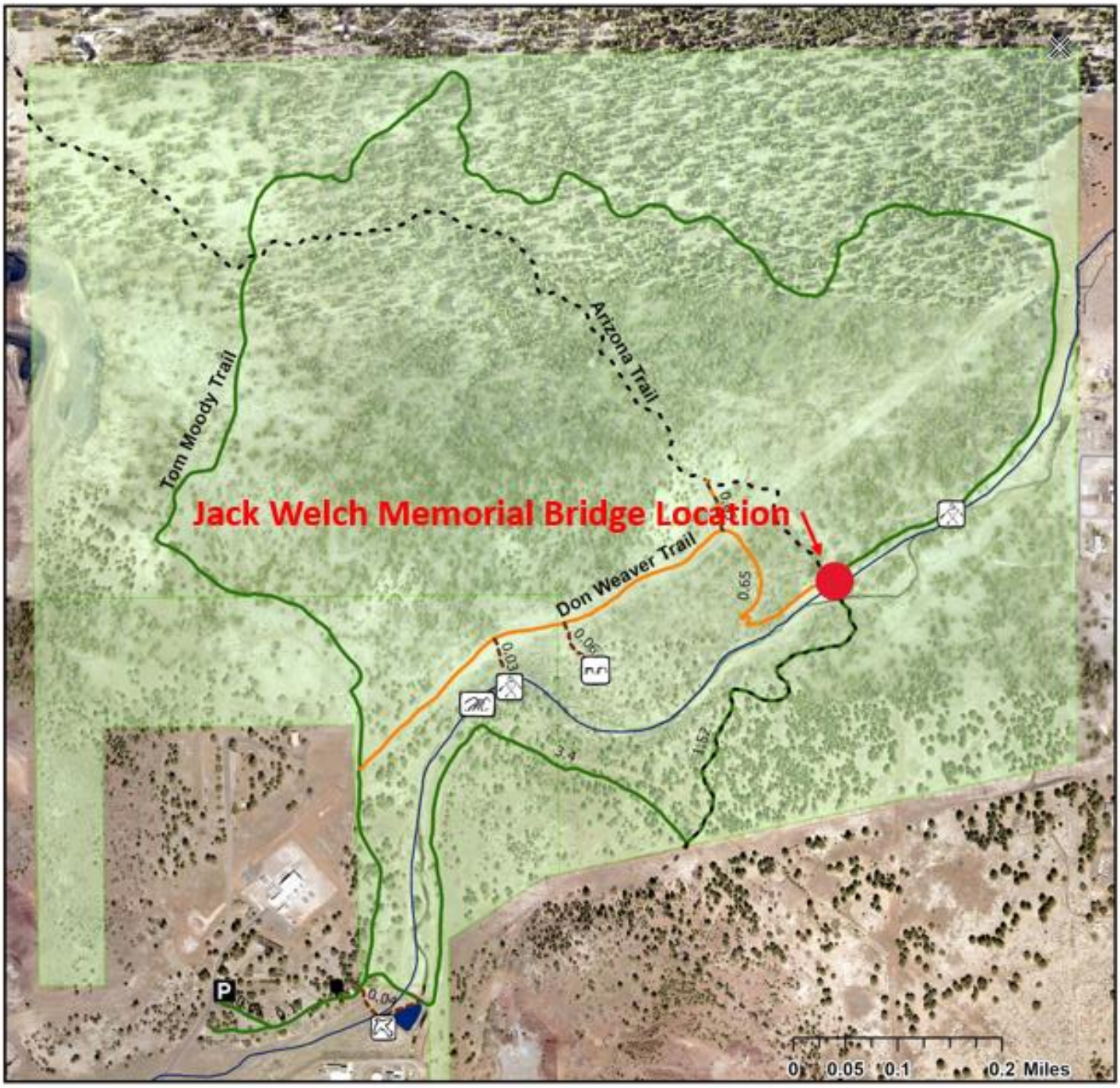
APPROVED AS TO FORM:

_____
CITY ATTORNEY

18x12” cast holly bronze or solid bronze, gold areas are raised bronze, background is brown leather texture, blind studs for mounting

Trails

Picture Canyon Natural and Cultural Preserve



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

N
W
E
S

*All trail distance calculated in Miles

4/22/2020

PETITION TO FLAGSTAFF CITY COUNCIL

Pursuant to Flagstaff City Charter Article II Section 17 and Flagstaff City Code Title I Chapter 12

RECEIVED SEP 05 2024 BY:

Pursuant to the Flagstaff City Charter and the City Code, any citizen (resident) of the City may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City of Flagstaff, which shall be presented to the City Council.

Title of Issue: Proposed - JACK WELCH MEMORIAL BRIDGE at Picture Canyon

Action Requested: see attached

Printed Name of Submitter: Jane Jackson

(Submitter must also sign below and complete information)

Contact Information: jejackson541@gmail.com 602-568-6395

(Phone Number and/or e-mail address)

PETITION SIGNATURES

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
8-12-24	Kathleen Walsh	[redacted]	Kathleen Walsh
8-12-24	JOHN NOLL		John Noll
8-12-24	MICHAEL SCOTT		Michael Scott
8-12-24	Theodora Scott		Theodora S. Scott
8-12-24	JANICE RAYMAN		Janice Rayman
8-12-24	Kathy Noll		Kathryn R. Noll
8-13-24	JOHN E. DRASSLER		John E. Drassler
8-12-24	Louis Lucero		
8/13/24	Ann Schaffner		Ann Schaffner
8-13-24	Colleen Mahill		

RECEIVED BY CITY OF FLAGSTAFF		
DATE RECEIVED	**BY**	**COUNCIL MEETING DATE**
9/5/24	Stacy Saltzburg	10/01/2024

Petition to Flagstaff City Council

Title of Issue: Proposed Jack Welch Memorial Bridge at Picture Canyon

Action Requested: With support of many Friends of Jack Welch and City Staff, we propose naming the bridge over the Rio de Flag in Picture Canyon the 'Jack Welch Memorial Bridge.'

With the recent 1-year anniversary of Jack's passing (July 21, 2023), it's timely to memorialize Jack's many and enduring contributions to Flagstaff.

He was instrumental in garnering support for the City's acquisition of Picture Canyon in 2012 and transition to Picture Canyon Natural and Cultural Preserve. Many Flagstaff residents' initial awareness of Picture Canyon sprung from one of Jack's numerous Walks. In 2016, Open Spaces Commission recognized him for leading his 100th public walk in Picture Canyon.

Jack contributed to many City Departments and Programs including: Bicycle and Pedestrian Advisory Committees, Sustainability and Environmental Management, Traffic Commission, Disability Awareness Commission; Beautification and Public Art Commission.

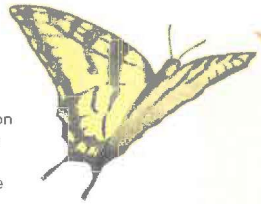
He volunteered with numerous Community organizations including: National Park Service volunteer at Wupatki National Monument; Member of Friends of Northern Arizona Forests, Friends of the Rio de Flag, Flagstaff Biking Organization, Flagstaff Trails Initiative and Arizona Trail Association.
Jack's twice monthly Flagstaff Trailheads was among the most popular in the Arizona Daily Sun.
He was the Flagstaff Citizen of the Year in 2009 and recognized by "Best of Flagstaff" as Volunteer of the Year in 2011.

Elements to be incorporated into the Memorial Plaque are yet to be finalized, and will be designed in coordination with PROSE staff.

From Martin Ince, Multimodal Transportation Engineer upon Jack's passing last year;

"Jack moved to Flagstaff in 1998 from St. Louis, and immediately made an impact on his adopted hometown.
Jack helped form the Bicycle Advisory Committee, and almost single-handedly started the Pedestrian Advisory Committee, long before they were official City committees. For a number of years he organized Pedestrian Awareness Week, which later morphed into Flagstaff Walks!.
For many years Jack led a series of walks all over Flagstaff and the surrounding area. He often conducted several walks per week, and it was not unusual to have 20-30 people along. The walks were social and enjoyable, and explored beautiful places, but he typically included an educational component as well – the history of the place, future plans for a trail, open space etc.
There was a time when, if we held a public meeting or conducted a community survey, we would only get good participation if Jack sent the word out to his legions of followers.
Jack leaves an amazing legacy of advocacy for walking, biking, trails, and open space, and inspiration for the whole community. He will be missed."

HOW TO GET THERE



From downtown Flagstaff, travel east on Route 66 for 4 miles. Turn right at the Auto Park sign to remain on Historic Route 66. Turn left on El Paso Flagstaff Road and a parking area is located approximately 1 mile down the road on the right side.

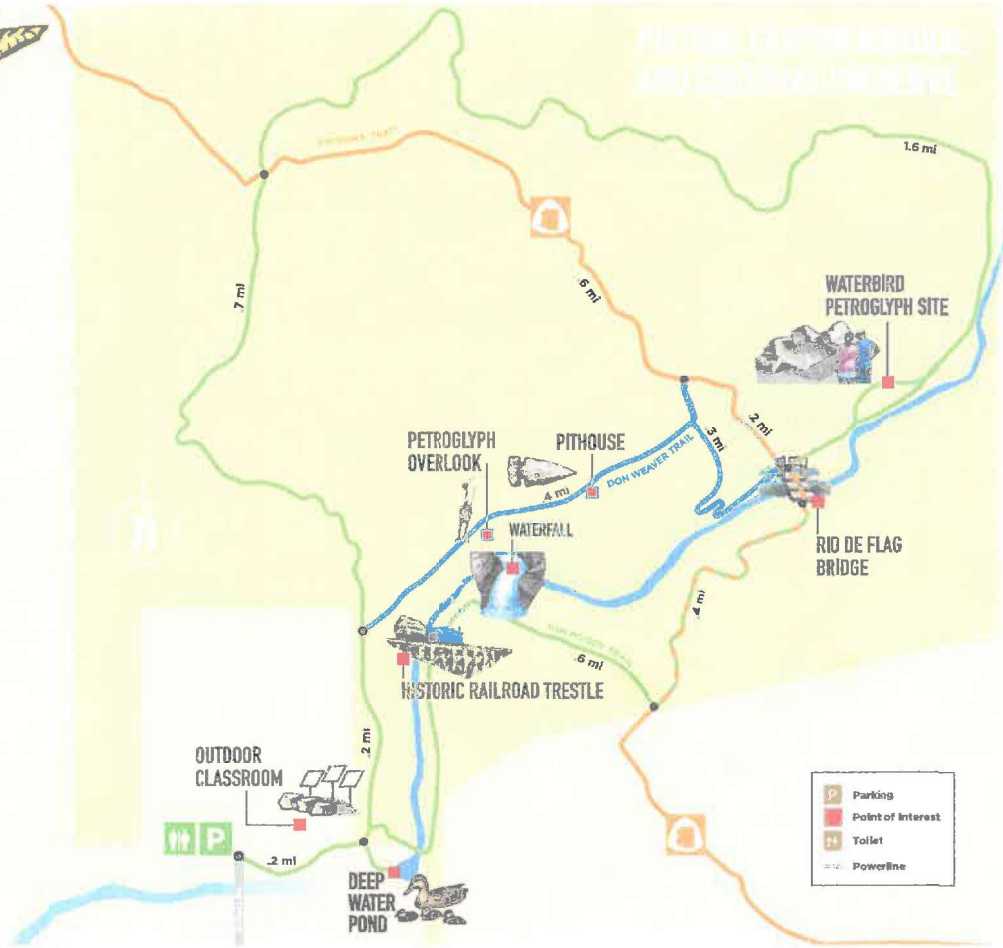
RECREATIONAL OPPORTUNITIES

TOM MOODY TRAIL – **3.9 mile loop trail** with canyon vistas, extensive petroglyph panels, and interpretive areas. Travel counter-clockwise for an easy 0.4 mile one-way walk to the the waterfall.

DON WEAVER TRAIL – **0.7 mile educational trail** that travels through a portion of the canyon and proceeds along a pipeline access road. Provides access to vistas and cultural resource points of interest. To view the spectacular Waterbird petroglyph site, proceed 0.1 miles east on the Tom Moody Trail from the bridge.

ARIZONA TRAIL – **1.2 mile** segment of the 800+ mile trail that stretches from Mexico to Utah traverses through the Preserve. Access the Arizona Trail via the Tom Moody Trail.

Scan this QR code to download an interactive map of the Picture Canyon trail system to your smartphone using the Avenza app.



RULES AND REGULATIONS

Prohibited Use: Picture Canyon is closed to motorized vehicles, hunting, camping, campfires, fuelwood collection, and overnight uses.

Respect Wildlife: Picture Canyon provides ample opportunity to observe wildlife, but please do so from a distance to ensure your safety. Hunting is strictly prohibited within the Preserve.

Equestrian Use: Horses are permitted within Picture Canyon but to protect the trails, please do not ride your horse during wet conditions.

Leave No Trace: Dispose of your waste properly by taking it home with you.

Respect Cultural Resources: Picture Canyon is a very important cultural site in northern Arizona. Please help us protect these fragile resources by not touching petroglyphs or taking anything home with you.

Keep Pets on a Leash: Be mindful of other visitors by keeping your pet on a leash. To enhance visitor experiences and reduce environmental impacts, please pick up after your pet.

Be Prepared: Bring comfortable walking shoes, sun protection, and ample amounts of water with you for your visit to the Preserve.

PICTURE CANYON

For more information about Flagstaff natural areas:
www.flagstaff.az.gov/OpenSpace · 928-213-2154
www.flagstaff.az.gov/PictureCanyon

Stay up-to-date with the latest Picture Canyon news by following our Facebook page *https://www.facebook.com/FlagstaffOpenSpace/*

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Proposed Jack Welch Memorial Bridge PAGE 2 OF

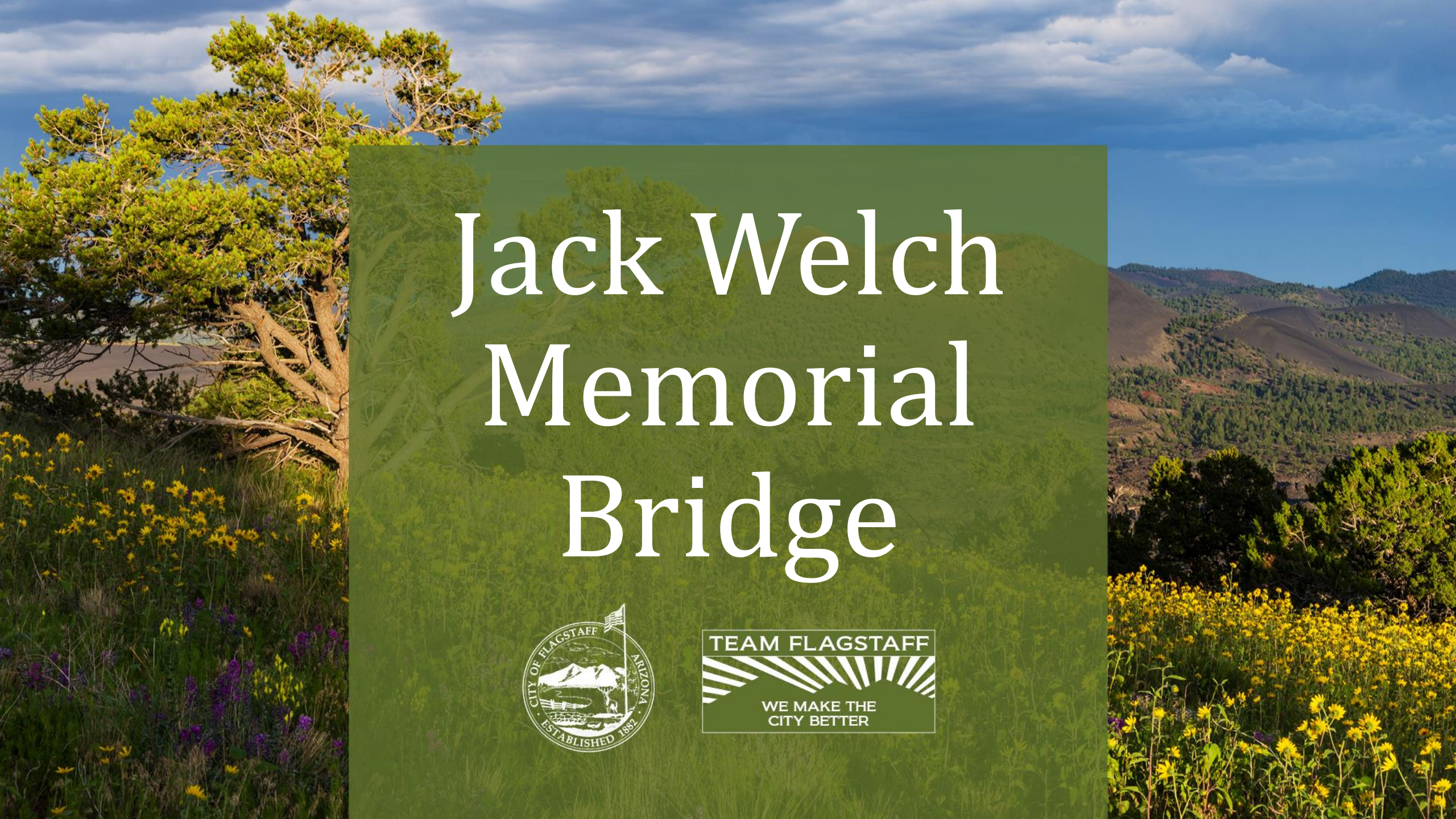
DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
8/6/24	SHANNON CLARK	[redacted]	Shannon Clark
8/6/24	Barbara Linthicum		Barbara Linthicum
8/6/24	Christine Cox		Christine L Cox
8/6/24	Christine Orr		Christine Orr
8/6/24	Mary E Brown		Mary E Brown
8-16-24	JO-ANN Vigil		Jo-Ann Vigil
8-6-24	Nancy Marshall		Nancy Marshall
8/6/24	Rick Mullen		
8/6/24	DUNCAN ORR		
8/8/24	William Wade		
8/8/24	Ellen Wade		E C Wade
8/11/24	DON CARTER		Don Carter
8/11/2024	Karen Malis-Clark		Karen Malis-Clark
8/13/2024	Charles M. King		
8/13/2024	Sharon J. King		
8.13.2024	Michael Stallwhite		
8/14/2024	WM. Michael Wilson		
8-14-2024	Elaine Laemmle		86004
8/14/2024	David Spence		David A. Spence
8/14/24	BILL SANDERCOCK		Bill Sandercock
8/14/24	IRMA SANDERCOCK		Irma Sandercock
8/14/24	Roy H. May Jr.		
8/14/24	Karen Enyedy		Karen Enyedy

02/2016

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: Proposed Jack Welch Memorial Bridge **PAGE** 3 **OF** _____

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
8/15/24	Melinda Bell	[redacted]	Melinda Bell
8/15/24	Debra McMahon		DMcMahon
8/15/24	Vera Markgraf		Vera Markgraf
8/15/24	Gisela Kluwin		Gisela Kluwin
8/16/24	JEFF GOULDEN		
8/17/24	BARRY KOETJ		
8-17-24	Joan Degenkolb		Joan Degenkolb
8-17-24	David Sanders		
8-17-24	Gretchen Wilca		
8-17-24	M.A. Colacarro		M.A. Colacarro
8/17-24	Margie Goulden		Margie Goulden
8/19/24	Jacob Lesandrini		
8/19/2024	Andrea Michaels		A. A. Michaels
~~8/19 AUG 24~~	~~DAVID MICHA~~		
8/19/2024	DAVID MICHAELS		
8/21/24	Antonette Johnson		Antonette Johnson
8/21/2024	Ruth Ann DeCou		Ruth Ann DeCou
8/21/2024	JOAN HADDEN		
8-21-24	Teddy Scott		Teddy Scott
8-21-24	Shirley Wunsch		Shirley Wunsch
8/25/24	Mickey Houston		Mickey Houston
8/25/24	Mikah Rosanova		
8/25/24	Sarah White		


Jack Welch
Memorial
Bridge
CITY OF FLAGSTAFF
ARIZONA
ESTABLISHED 1882
TEAM FLAGSTAFF
WE MAKE THE
CITY BETTER

Jack Welch Memorial Bridge

Recognizing Mr. Jack Welch

Jack Welch made a definitive contribution to the betterment of the Flagstaff community and its citizens. The community would like to honor his memory by naming the Rio de Flag Bridge, located at the Picture Canyon Natural and Cultural Preserve, the Jack Welch Memorial Bridge.

Jack Welch Memorial Bridge

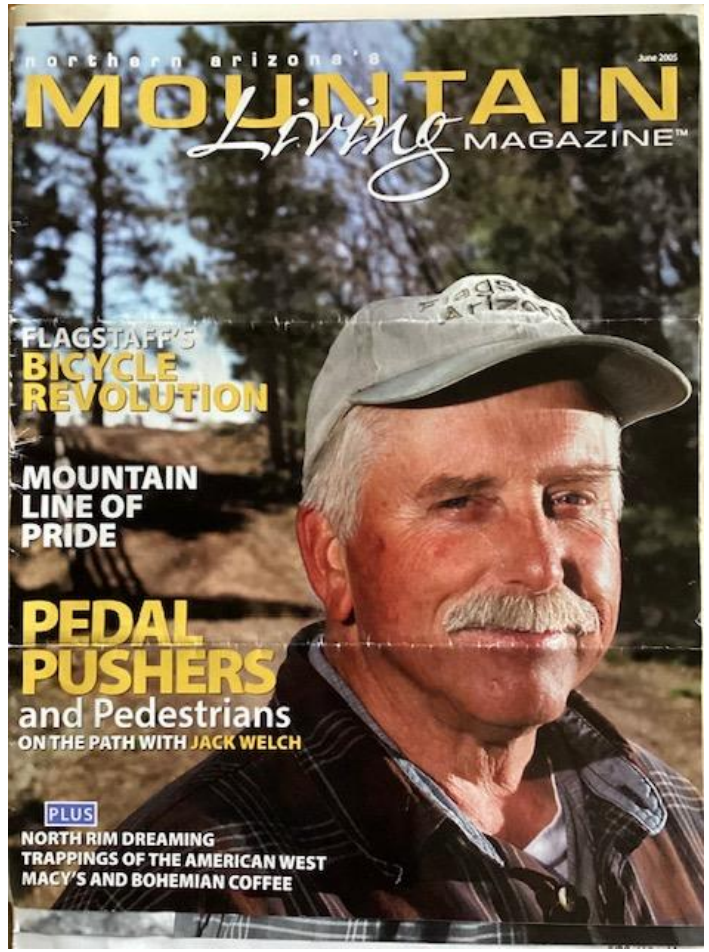
Community Contributions

- Pedestrian Advisory Committee
- FUTS advocate
- Citizen of the Year
- Open Spaces Commission

Jack Welch Memorial Bridge

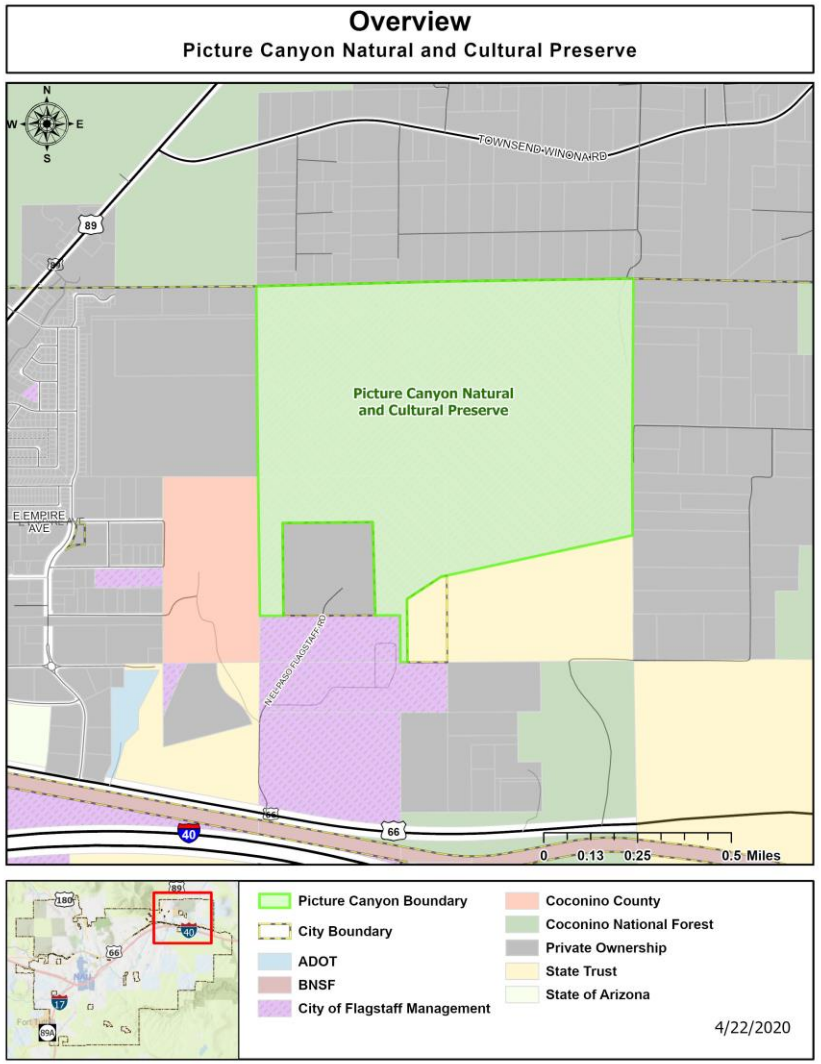
Community Contributions

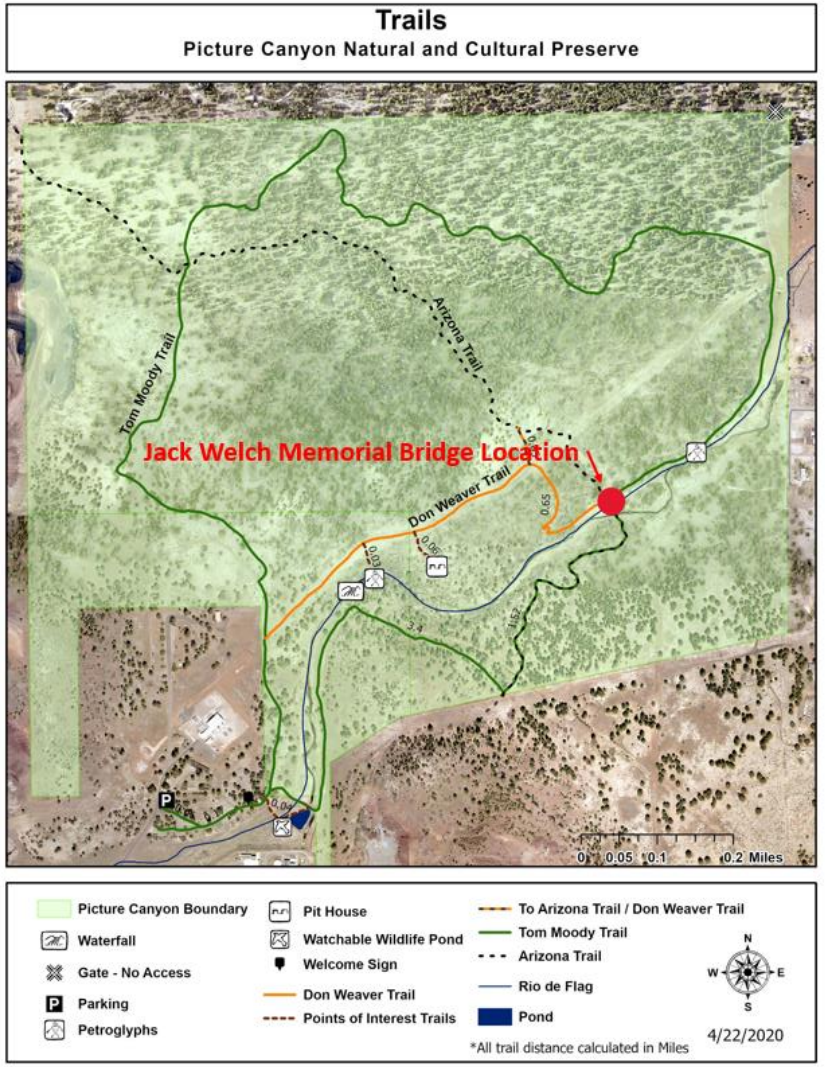
- An original member of the Picture Canyon Working Group
- Mobilized the community to advocate for the preservation of Picture Canyon
  Actively engaged in community education and outreach
- Participated in the Picture Canyon Education Committee
- Participated as an Open Space Steward
  Devoted steward of Picture Canyon



Jack Welch Memorial Bridge

Community Proposal





Jack Welch Memorial Bridge

Community Proposal

- Citizens' Petition
- Open Spaces Commission unanimously supported
- Open Space Section supports

Jack Welch Memorial Bridge

Community Proposal

Jack Welch Memorial Bridge

Questions?

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Jack’s legacy lives on through all the people who draw strength from his example of dedication and stewardship.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Shannon Anderson, Senior Deputy City Manager

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Resolution No.2025-23: A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement between Coconino County and the City of Flagstaff for Criminal Justice Coordinating (CJCC) Management.

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2025-23 by title only
2. City Clerk reads Resolution No. 2025-23 by title only (if approved above)
3. Adopt Resolution No. 2025-23

Executive Summary:

The City Council and County Board of Supervisors created the CJCC in 2005. The mission of the coordinating council is to promote the safety of citizens, provide efficient and just treatment for offenders, protection and healing of victims and work towards prevention of crime and reduction of recidivism. The CJCC studies the criminal justice system in order to make improvements.

CJCC Management as outlined in the Intergovernmental Agreement is fulfilled by the CJCC Director who coordinates meetings, maintains communication, facilitates goals and objectives, conducts research and prepares reports, and orients new CJCC members. The CJCC Director position is hosted by Coconino County and the City provides fifty percent support for this position.

Coconino County hired a new CJCC Director, Dianna Kalandros, in January 2025 and this Intergovernmental Agreement will be the foundation necessary to pay Coconino County invoices received on a quarterly basis.

Financial Impact:

Project Name: CJCC Management
Cost: January to June 2025 estimate: $46,000. The City share of this position is estimated at $95,000 annually, which includes salary, benefits and operating expenses.
Account Number Budgeted: 001-01-017-0070-1-4290
FY Budgeted Amount: $63,100
Grant Funded: N/A
Funding Source: General Fund

Policy Impact:

There are no policy impacts related to this Intergovernmental Agreement with Coconino County for CJCC Management.

Previous Council Decision or Community Discussion:

City Council approved funding for CJCC Management beginning in FY 2021-2022 and the funding has continued through the budget approval process.

Options and Alternatives to Recommended Action:
Option 1: Council supports the Intergovernmental Agreement with Coconino County to provide the funding for CJCC Management.
Option 2: Council determines a different path for supporting CJCC Management hosted through Coconino County.
Option 3: Council does not wish to support CJCC Management through Coconino County.

Connection to PBB Priorities and Objectives:
Safe & Healthy Community: Enhance community engagement and strengthen relationships between the community and public safety services.
High Performing Governance: Implement and communicate innovative and efficient local government programs, new ideas, and best practices.

Connection to Regional Plan:
Public Safety Goals and Policies Goal PF.3. Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport service.

Connection to Carbon Neutrality Plan:
None.

Connection to 10-Year Housing Plan:
None.

Connection to Division Specific Plan:
None.

Attachments: Res. 2025-23
IGA
Presentation

RESOLUTION NO. 2025-23

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCONINO COUNTY AND THE CITY OF FLAGSTAFF FOR CRIMINAL JUSTICE COORDINATING COUNCIL MANAGEMENT.

RECITALS:

WHEREAS, the Coconino County and City of Flagstaff desire to enter into an intergovernmental agreement for Criminal Justice Coordinating Council Management;

WHEREAS, The City and County are authorized to enter an IGA pursuant to Section 11-952 of the Arizona Revised Statutes authorizing various political subdivisions of the State to enter into agreements providing for joint exercise of their respective governmental powers for the public benefit; and

WHEREAS, The City and County previously entered into an IGA commencing on the 5th day of April 2005, for the unified implementation and support of the Coconino County Criminal Justice Coordinating Council ("CJCC"). The parties now with to enter into a new IGA for the provision of CJCC management; and

WHEREAS, The City Council approved funding for Criminal Justice Coordinating Council Management in the fiscal year 2021-2022 budget and a funding appropriation has continued since that date. This agreement will formalize a funding arrangement between the City and County; and

WHEREAS, The County is willing to employ a qualified candidate to fill the position of CJCC Director with the duties and responsibilities of the position as set forth by the CJCC Board of Directors; and

WHEREAS, The City will reimburse up to fifty percent (50%) of the CJCC Director's salary, benefits, and operating expenses.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the Mayor to execute the Intergovernmental Agreement between Coconino County and the City of Flagstaff, Arizona, attached hereto as Exhibit A.

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of May 2025.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
IGA

INTERGOVERNMENTAL AGREEMENT
Between
COCONINO COUNTY
A political subdivision of the State of Arizona

AND

CITY OF FLAGSTAFF
An Arizona municipal corporation

For

CRIMINAL JUSTICE COORDINATING COUNCIL MANAGEMENT

This INTERGOVERNMENTAL AGREEMENT (hereinafter the "IGA") is made and entered into this___ day of _____, 2025,

BETWEEN

CITY OF FLAGSTAFF, an Arizona Municipal Corporation, of 211 West Aspen Street, Flagstaff, Arizona 86001 (hereinafter the "City"),

AND

COCONINO COUNTY, a political subdivision of the State of Arizona, of 219 East Cherry Avenue, Flagstaff, Arizona 86001, (hereinafter the "County),

WHEREAS:

A. The City and County are authorized to enter an IGA pursuant to Section 11-952 of the Arizona Revised Statues authorizing the various political subdivisions of the State to enter into agreements providing for the joint exercise of their respective governmental powers for the public benefit; and

B. The City and County previously entered into an IGA commencing on the 5th day of April 2005, for the unified implementation and support of the Coconino County Criminal Justice Coordinating Council (hereinafter the "CJCC). The parties now wish to enter into a new IGA for the provision of CJCC management; and

C. The County is willing to employ a qualified candidate to fill the position of CJCC Director with the duties and responsibilities of the position as set forth by the CJCC Board of Directors; and

D. Upon hire, and while employed, the County is willing to pay one hundred percent (100%) of the employee's salary and benefits (ERE); and

E. The County is willing to pay one hundred percent (100%) of the employee's operating expenses; and

F. The City is willing to reimburse the County fifty percent (50%) of the employee's salary and benefits (ERE); and

G. The City is willing to reimburse the County fifty percent (50%) of the employee's operating expenses.

THEREFORE, in consideration of their mutual promises set out herein, the City and County agree as follows:

1. The County will employ a qualified candidate to provide the required supports to the CJCC in the role of CJCC Director for an annual compensation not to exceed $125,000 (hereinafter the "compensation") not including benefits (ERE). The qualified candidate may be a County employee or independent contractor of the County.
2. The City will reimburse the County for one-half (1/2) of the annual compensation not to exceed $62,500, not including benefits (ERE).
3. The City will reimburse the Country for one-half (1/2) of the cost of the employee related benefits (ERE).
4. The County will provide annual operating expenses not to exceed $25,000.
5. The City will reimburse the County for one-half (1/2) of the annual operating expenses not to exceed $12,500.
6. The County will issue regular invoices to the City at the beginning of each quarter of the fiscal year, to be paid in advance. The City will pay such invoices within Forty-five (45) days after receipt thereof. The second invoice of a fiscal year (quarter two) will be adjusted to include any variance from budgeted to actual costs resulting from actual activity in the prior fiscal year.
7. This IGA will commence on January 21, 2025, and remain in effect through December 31, 2030.
8. This document constitutes the entire agreement between the parties with respect to the subject matter hereto and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements, and other communications between the parties. It may not be changed or modified except by an instrument in writing signed by a duly authorized representative of each party.
9. The failure of either party at any time to require performance by the other party of any provisions hereof will in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of the breach of any provision hereof will not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.
10. Any notice given in connection with this IGA must be given in writing and delivered either by hand to the party or by certified mail-return receipt to the address given below for the party to be notified:

If to the City:	If to the County:
City Manager City of Flagstaff 211 West Aspen Flagstaff, Arizona 86001	Clerk of the Board of Supervisors Coconino County 219 East Cherry Avenue Flagstaff, Arizona 86001

11. Any dispute under this IGA or related to this IGA will be decided in accordance with the laws of the State of Arizona.

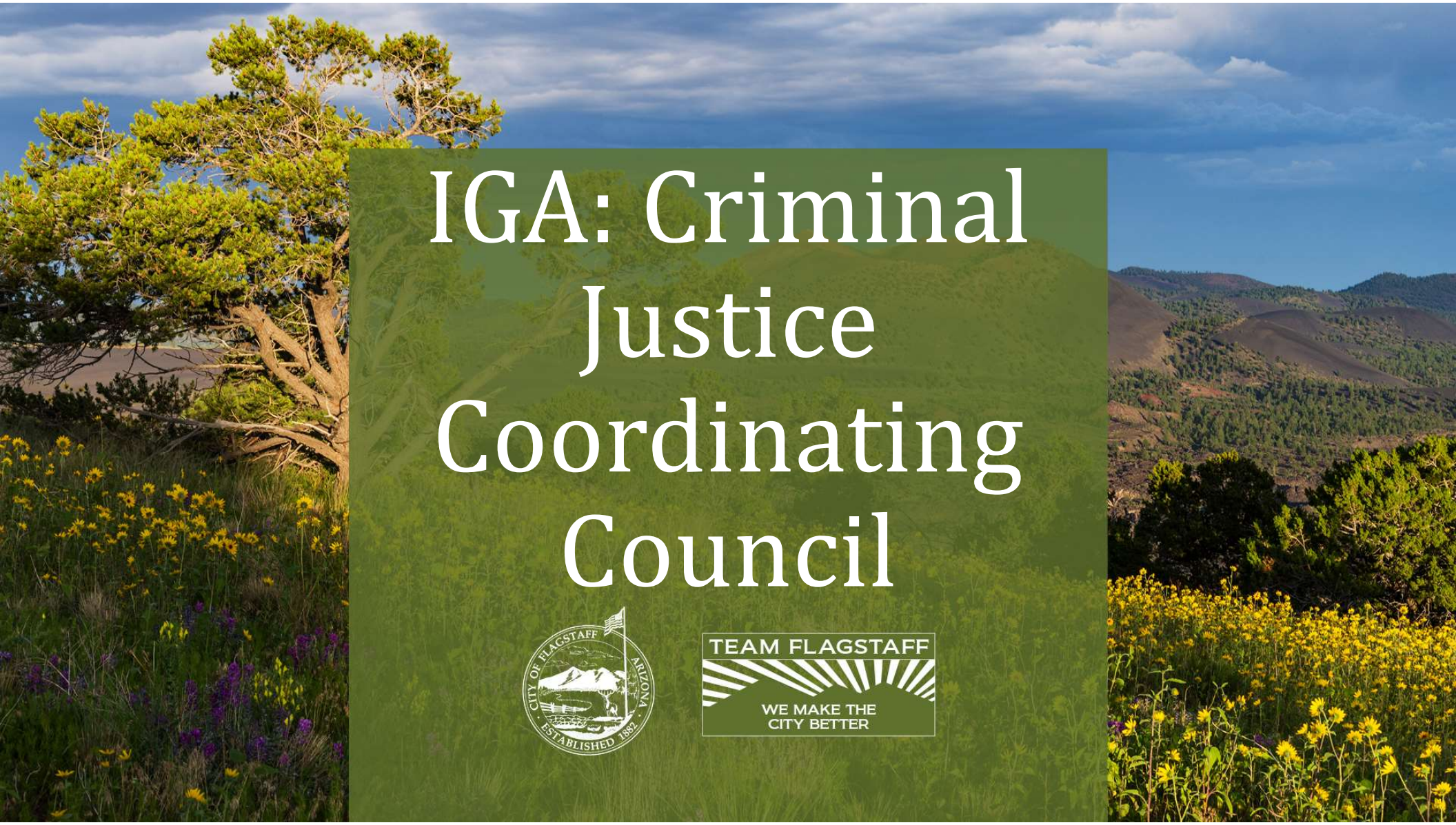
12. If any part of this IGA is held to be unenforceable, the rest of the IGA will nevertheless remain in full force and effect.
13. This IGA is subject to the cancellation provisions of Section 38-511 of the Arizona Revised Statues.

IN WITNESS WHEREOF the parties hereto have executed this IGA as of the date herein indicated.

CITY OF FLAGSTAFF	COCONINO COUNTY
By _____	By _____
Becky Daggett	Patrice Hortsman
Mayor	Chair, Board of Supervisors
ATTEST: _____	ATTEST: _____
Stacy Saltzburg	Lindsay Daley
City Clerk	Clerk of the Board

Approved as to form and found to be within power and authority of each respective governing body by its undersigned legal counsel:

_____	_____
City Attorney	Deputy County Attorney
City of Flagstaff	Attorney for Coconino County


IGA: Criminal Justice Coordinating Council
CITY OF FLAGSTAFF
ARIZONA
ESTABLISHED 1882
TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Criminal Justice Coordinating Council (CJCC)

- Established in 2005 by City Council and Board of Supervisors
- Mission
  - Promote the safety of citizens
  - Efficient and just treatment for offenders
  - Protection and healing of victims
  - Work toward prevention of crime
  - Reduction of recidivism
- Purpose is to study criminal justice and make improvements

CJCC Director

- Serves as liaison to CJCC and partners
- Coordinates CJCC committees and workgroups
- Maintains CJCC webpage on County website
- Analyzes policies and data
- Conducts legal and scientific research
- Prepares reports in response to goals and objectives
- Consults with entities in the criminal justice system
- Orients new members

CJCC Management

- New CJCC Director, Dianna Kalandros
- IGA captures the City's commitment to support half of the position and operational expenses
- City will pay invoices quarterly
- Annual reconciliation to adjust for any variances
- Funding approved beginning FY 2021-2022

Council Questions and Discussion

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Charles Hernandez, Deputy Police Chief

Co-Submitter: Megan Dales

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Resolution No. 2025-22: A resolution of the Flagstaff City Council, authorizing the grant agreement for an Arizona State Parks Off-Highway Vehicle Supplemental Grant

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2025-22 by title only
2. City Clerk reads Resolution No. 2025-22 by title only (if approved above)
3. Adopt Resolution No. 2025-22

Executive Summary:

Approval of the Project Sponsor Agreement will allow the Arizona State Parks Board to channel Off-Highway Vehicle (OHV) Supplemental Grant funds to the City of Flagstaff Police Department to purchase the OHV vehicle, equipment, and compensation for overtime operations.

Financial Impact:

Project Name:Res. - AZ State Parks and Trails OHV Supplemental Grant
Cost: $93,738.00
Account Number Budgeted: 001-04-062-6278-2-4305
FY Budgeted Amount: $93,738.00
Grant Funded: YES (AZ State Parks and Trails OHV Grant)
Funding Source: AZ State Parks Board

There is no significant financial impact on the City of Flagstaff in terms of expenditures. This grant funding is budgeted for FY 2025 in the amount of $93,738.00, account number 001-04-062-6278-2-4305. A 10% match is required for reimbursement. The City of Flagstaff Police Department will provide up to $66,212.50 in in-kind match in the form of staff time and supplies for this project. We have historically and are currently performing work through various patrol operations that will meet this match with staff time and supplies requirements (ex. Woods Watch, Camping Resource Pamphlets, etc)

Policy Impact:

The Agreement and grant funds aim to strengthen public safety by enhancing the Flagstaff Police Department's OHV law enforcement capabilities to ensure compliance with on-roadway and off-highway safety regulations, in addition to minimizing environmental impacts within the community and open spaces. Additionally, we will improve response times and effectiveness to OHV involved incidents that occur in remote areas where conventional vehicles cannot access. Lastly, we will educate the public on responsible OHV usage to mitigate risks and promote environmental stewardship. We believe the best prevention is education before enforcement. To achieve voluntary compliance with the laws and regulations governing OHV equipment and operations, it is our intention to participate in and host community events to provide educational materials and in-person question-and-answer events to boost community awareness and safety related to OHVs on the roadway and in our open spaces. We will work with local vendors of OHVs to ensure

educational materials can be distributed to community members at the time of their purchase, offering reference contact information for purchasers to reach out and obtain more information related to safe OHV operations within our community.

Previous Council Decision or Community Discussion:
On April 1, 2025, Council approved an item on the consent agenda related to this project and grant. The item on the consent agenda was listed as follows:

E. Consideration and Approval of the Project Sponsor Agreement: City of Flagstaff and the Arizona State Parks Board for approval of award of the Off-Highway Vehicle Supplemental Grant.

STAFF RECOMMENDED ACTION:
Approve Project Sponsor Agreement with the Arizona State Parks Board for the Fiscal Year 2025 Off-Highway Vehicle (OHV) Supplemental Grant in the amount of $93,738.00 for the Flagstaff Police Department to utilize for the purpose of Law Enforcement Programs. The grant funds will be utilized for outreach in heavily trafficked OHV locations. Additionally, the department will enhance patrol and enforcement efforts in off-highway areas and support the Coconino County Sheriff's Office during holidays and special events related to OHV operations. Grant funds will be used for the following items: Overtime patrol, 1 side-by-side vehicle (SXS) with upgrades, SXS communication package with install, SXS LE lighting package with install, Officer PPE.

Options and Alternatives to Recommended Action:
1. Approve as recommended
2. Disapprove the Agreement with the Arizona State Parks Board and potentially refuse the funding of this project.

Background and History:
The State OHV Recreation Fund, established in 1991, provides a legislatively set percentage (0.55 percent) of total license taxes on motor vehicle fuel from the Highway User Revenue Fund for OHV management. Approximately $2 million is available annually through Arizona State Parks for OHV projects. In 2009, new OHV legislation was enacted to provide more regulation of OHV usage and additional funds to support law enforcement and facility development. All vehicles weighing less than 2,500 pounds and designed primarily for travel over unimproved terrain are required to display an indicia (sticker) distributed through the Department of Motor Vehicles. The $25 cost of the sticker is added to the OHV Recreation Fund. State Parks receives 60 percent of the money in the fund for projects.

Connection to PBB Priorities and Objectives:
By leveraging Fiscal Year 2025 grant funds, this agreement directly supports this policy by ensuring the Flagstaff Police Department has the resources necessary to deliver enhanced public safety services. This approach will allow our agency to optimize our effectiveness and coordinated efforts to ensure alignment with population demands and regional public safety goals. Furthermore, the transparent use of these funds reflects a commitment to sound fiscal management, ensuring services remain sustainable and in line with public policies and budgetary limitations. This grant initiative strengthens the region's ability to meet evolving public safety needs while upholding the policy's focus on quality and efficiency.

Connection to Regional Plan:
The OHV Supplemental Grant Agreement aligns with the **Flagstaff Regional Plan Policy PF.3.1**, which emphasizes maintaining high quality, effective, and efficient law enforcement, fire, and emergency services. This policy underscores the importance of balancing public safety services with the operational goals, government plans, policies, population needs, and available funding.

Connection to Carbon Neutrality Plan:
NONE

Connection to 10-Year Housing Plan:
NONE

Connection to Division Specific Plan:
In January 2024, the Consumer Federation of America issued a press release titled, "2023 Fatality Data: Another Devastating Year for Off-Highway Vehicle Riders and Occupants", citing that there were 498 off-highway vehicle (OHV) fatalities in 2023. Additionally, "children fifteen years and younger accounted for nineteen percent of all deaths". Lastly, the release advised, "OHV fatalities disproportionately occur on-road", meaning vehicles are operated on public streets when they are manufactured, designed, and intended for off-highway use. Multiple fatalities and significant head injuries are related to crashes involving OHVs on-road due to operators and passengers being "less likely to wear protective gear, such as helmets".

An analysis of our roadway traffic and off-highway arterial trails indicates an intertwined vehicle transit system not easily navigated by traditional roadway patrol vehicles. The increase in OHV usage within our city and surrounding forests has led to a rise in safety concerns and environmental impacts in the City of Flagstaff and Coconino County jurisdictions. Currently, our law enforcement agency lacks adequate resources to effectively monitor and enforce OHV regulations across remote and challenging terrains located within the City of Flagstaff and surrounding open spaces within Coconino County and the Coconino National Forest land. This gap compromises public safety, environmental conservation efforts, and overall community welfare due to our limited equipment capabilities to access off-highway roadways in open spaces.

Within the City of Flagstaff jurisdiction, there are approximately (14) fourteen miles of identified OHV trails, consisting of legs within the Cinder Hills OHV Loop (aka Cinder Hills OHV Area). In addition to this OHV recreation area, the City of Flagstaff has numerous unpaved roadways and trail systems within the city limits that OHV and off-road motor vehicles utilize with authorization and without.

It is our intention to utilize grant funding to fill gaps in our enforcement efforts and bolster the safety and educational efforts by using a procured OHV to engage with the public and use the engagement as an opportunity to educate on safety and laws related to OHV operations and safety. To accomplish this objective, we will increase our patrol efforts of off-highway OHV enforcement, while simultaneously bolstering our on-road enforcement efforts, ensuring proper safety equipment is present and ensuring on-highway laws are adhered to. During the directed patrols, we will also ensure good environmental stewardship of open spaces within the community while additionally ensuring fire prevention and education activities are conducted. We are committed to utilizing these resources efficiently to promote a safer, more informed, and resilient community.

Attachments:
Res. 2025-22
Staff Summary
Project Agreement
Project Agreement Attachment A
Attachment C

RESOLUTION NO. 2025-22

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, AUTHORIZING THE GRANT AGREEMENT FOR AN ARIZONA STATE PARKS OFF-HIGHWAY VEHICLE SUPPLEMENTAL GRANT

RECITALS:

WHEREAS, the Congress of the United States has authorized the Recreational Trails Program Grant as a federal-aid assistance program for all kinds of recreational trail uses, such as pedestrian uses (hiking, running, wheelchair use), bicycling, equestrian use, cross-country skiing, and off-road motorized vehicles; and

WHEREAS, Arizona State Parks (Parks) is responsible for the administration of the Statewide appropriated Recreational Trails Program Funds, including the State OHV Recreation Fund, setting up necessary rules and procedures governing application by eligible project sponsors under the program; and

WHEREAS, said adopted procedures established by Parks require the project sponsor to certify by resolution the approval of applications, signature authorization, the availability of local matching funds (if applicable), and authorization to sign a Project Agreement with the Parks prior to grant funding allocations from Parks.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the City of Flagstaff approves the grant agreement for the Off-Highway Vehicle Supplemental Grant.

SECTION 2. That the City of Flagstaff certifies that the agreement is consistent and compatible with all adopted plans and programs of the City of Flagstaff: for providing equitable opportunities for community health and education.

SECTION 3. That the City of Flagstaff agrees to comply with all appropriate procedures, guidelines, and requirements established by the Parks as a part of the grant acceptance process.

SECTION 4. That the City of Flagstaff certifies that the City of Flagstaff will comply with all appropriate state and federal regulations, policies, guidelines, and requirements as they relate to the grant agreement.

SECTION 5. That the City of Flagstaff certifies that it has appropriate matching funds for this grant.

SECTION 6. Effective Date: This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of May, 2025.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
Project Sponsor Agreement
AZ State Parks & Trails Grant Sponsor Agreement Attachment B
AZ State Parks & Trails OHV LE Patrol Report Attachment C

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Charles M Hernandez II, Deputy Chief – Criminal Investigations

Co-Submitter: Megan Dales

Date: March 13, 2025

Meeting Date: May 6, 2025

TITLE:

Consideration and Approval of the Project Sponsor Agreement between the City of Flagstaff and the Arizona State Parks Board for approval of award of the Off-Highway Vehicle Supplemental Grant.

STAFF RECOMMENDED ACTION:

Approve Project Sponsor Agreement with the Arizona State Parks Board for the Fiscal Year 2025 Off-Highway Vehicle (OHV) Supplemental Grant in the amount of $93,738.00 for the Flagstaff Police Department to utilize for the purpose of Law Enforcement Programs. The grant funds will be utilized for outreach in heavily trafficked OHV locations. Additionally, the department will enhance patrol and enforcement efforts in off-highway areas and support the Coconino County Sheriff's Office during holidays and special events related to OHV operations. Grant funds will be used for the following items: Overtime patrol, 1 side by side vehicle (SXS) with upgrades, SXS communication package with install, SXS LE lighting package with install, Officer PPE.

Executive Summary:

Approval of the Project Sponsor Agreement will allow the Arizona State Parks Board to channel Off-Highway Vehicle Supplemental Grant funds to the City of Flagstaff Police Department to purchase the OHV vehicle, equipment, and compensation for overtime operations.

Financial Impact:

There is no significant financial impact to the City of Flagstaff in terms of expenditures. This grant funding is budgeted in FY 2025 in the amount of $93,738.00 account number 001-04-062-6278-2-4305. **A minimum 10% match** is required for reimbursement. City of Flagstaff Police Department will provide up to $66,212.00 in cash and/or in-kind match in the form of staff time and supplies for this project. We have historically and are currently performing work through various patrol operations that will meet this match staff time and supplies requirement. (ex. Woods Watch, Camping Resource Pamphlets…etc)

Policy Impact:

The Agreement and grant funds aim to strengthen public safety by enhancing the Flagstaff Police Department's OHV law enforcement capabilities to ensure compliance with on-roadway and off-highway safety regulations, in addition to minimizing environmental impacts within the community and open spaces. Additionally, we will improve response times and effectiveness to OHV involved incidents that occur in remote areas where conventional vehicles cannot access. Lastly, we will educate the public on responsible OHV usage to mitigate risks and promote environmental stewardship. We believe the best prevention is education before enforcement. To achieve voluntary compliance with the laws and regulations governing OHV equipment and operations, it is our intention to participate in and host community events to provide educational materials and in-person question and answer events to boost community awareness and safety related to OHVs on the roadway and in our open spaces. We will work with local vendors of OHV's to ensure educational material can be distributed to community members at the time of their purchase, offering reference contact information for purchasers to reach out and obtain more information related to safe OHV operations within our community.

Connection to Council Goal, Regional Plan and / or Team Flagstaff Strategic Plan:

The OHV Supplemental Grant Agreement aligns with the **Flagstaff Regional Plan Policy PF.3.1**, which emphasized maintaining high quality, effective, and efficient law enforcement, fire, and emergency services. This policy underscores the importance of balancing public safety services with the operational goals, government plans, policies, population needs, and available funding.

By leveraging Fiscal Year 2025 grant funds, this agreement directly supports this policy by ensuring the Flagstaff Police Department has the resources necessary to deliver enhanced public safety services. This approach will allow our agency to optimize our effectiveness and coordinated efforts to ensure alignment with population demands and regional public safety goals. Furthermore, the transparent use of these funds reflects a commitment to sound fiscal management, ensuring services remain sustainable and in line with public policies and budgetary limitations. This grant initiative strengthens the region's ability to meet evolving public safety needs while upholding the policy's focus on quality and efficiency.

Has There Been Previous Council Decision on This:

No, this grant has not been presented to council in the past.

Options and Alternatives:

- Approve the Agreement between the City of Flagstaff and Arizona State Parks Board
- Not Approve the Agreement between the City of Flagstaff and Arizona State Parks Board

Background / History:

The State OHV Recreation Fund, established in 1991, provides a legislatively set percentage (0.55 percent) of total license taxes on motor vehicle fuel from the Highway User Revenue Fund for OHV management. Approximately $2 million is available annually through Arizona State Parks for OHV projects. In 2009, new OHV legislation was enacted to provide more regulation of OHV usage and additional funds to support law enforcement and facility development. All vehicles weighing less than 2,500 pounds and designed primarily for travel over unimproved terrain are required to display an indicia (sticker) distributed through the Department of Motor Vehicles. The $25 cost of the sticker is added to the OHV Recreation Fund. State Parks receives 60 percent of the money in the fund for projects.

Key Considerations:

In January 2024, the Consumer Federation of America issued a press release titled, “2023 Fatality Data: Another Devastating Year for Off-Highway Vehicle Riders and Occupants”, citing that there were 498 off-highway vehicle (OHV) fatalities in 2023. Additionally, “children fifteen years and younger accounted for nineteen percent of all deaths”. Lastly, the release advised, “OHV fatalities disproportionately occur on-road”, meaning the vehicles are operated on public streets when they are manufactured, designed, and intended for off-highway use. Multiple fatalities and significant head injuries are related to the crashes involving OHV’s on-road due to operators and passengers being “less likely to wear protective gear, such as helmets”.

An analysis of our roadway traffic and off-highway arterial trails indicates an intertwined vehicle transit system not easily navigated by traditional roadway patrol vehicles. The increase in OHV usage within our city and surrounding forests has led to a rise in safety concerns and environmental impacts in the City of Flagstaff and Coconino County jurisdictions. Currently, our law enforcement agency lacks adequate resources to effectively monitor and enforce OHV regulations across remote and challenging terrains located within the City of Flagstaff and surrounding open spaces within Coconino County and the Coconino National Forest land. This gap compromises public safety, environmental conservation efforts, and overall community welfare due to our limited equipment capabilities to access off-highway roadways in open

spaces.

Within the City of Flagstaff jurisdiction, there are approximately (14) fourteen miles of identified OHV trails; consisting of legs within the Cinder Hills OHV Loop (aka Cinder Hills OHV Area). In addition to this OHV recreation area, the City of Flagstaff has numerous unpaved roadways and trail systems within the city limits that OHV and off-road motor vehicles utilize with authorization and without.

It is our intention to utilize grant funding to fill gaps in our enforcement efforts and bolster the safety and educational efforts by using a procured OHV to engage with the public and use the engagement as an opportunity to educate on safety and laws related to OHV operations and safety. To accomplish this objective, we will increase our patrol efforts of off-highway OHV enforcement, while simultaneously bolstering our on-road enforcement efforts ensuring proper safety equipment is present and ensuring on-highway laws are adhered to. During the directed patrols, we will also ensure good environmental stewardship of open spaces within the community while additionally ensuring fire prevention and education activities are conducted. We are committed to utilizing these resources efficiently to promote a safer, more informed, and resilient community.

Expanded Financial Considerations:

The Fiscal Year 2025 Arizona State Parks Off-Highway Supplemental Grant funds have been awarded in the amount $93,738.00 of which the City will agree to terms of the Agreement.

Community Benefits and Considerations:

The Agreement between the City of Flagstaff and Arizona State Parks Board enables the Flagstaff Police Department to leverage Fiscal Year 2025 grant funds to enhance crime prevent and control, support justice administration, prevent environmental impacts of open spaces, and provide education to OHV owners and operators. This contributes to a Safe and Healthy Community by providing public safety services with resources, staff & training which is responsive to the community's needs.

Community Involvement:

Inform the Council and public on the successful application and award of this grant and intended use of these funds.

Expanded Options and Alternatives:

1. Approve as recommended

2. Disapprove the Agreement with the Arizona State Parks Board and potentially funding of this project.

Arizona State Parks

1110 W. Washington Street Suite 100, Phoenix, AZ 85007

PROJECT SPONSOR AGREEMENT

This Agreement is entered into by and between the Arizona State Parks Board (BOARD) and Flagstaff Police Department (PROJECT SPONSOR) and shall become effective on the date of signature by the authorized representative of Arizona State Parks.

PROJECT TITLE: OHV Education and Enforcement			**PROJECT NUMBER:** ASPT # 552506
THIRD PARTY PARTICIPANT'S NAME:			**FY OF REVENUE:** 2025
PROJECT PERIOD: All expenses and match must be submitted by the project end date: **6/30/2027**			
GRANT PROGRAM: Off-Highway Vehicle Supplemental	**GRANT AMOUNT:** $93,738.00	**PARTICIPANT MATCH:** $66,212.50	**TOTAL PROJECT COST:** $159,950.50
APPROVED SCOPE OF WORK AND SPECIAL CONDITIONS: **Attachment A & B**			
AUTHORITIES TO ENTER INTO THIS AGREEMENT: (statute, resolution, minutes, etc.) STATUTE: A.R.S. §28-1176(E)(3) RESOLUTION: Need Signed Resolution			
AWARDING OFFICIAL ON BEHALF OF THE ARIZONA STATE PARKS BOARD: _____ Signature _____ Date **Kevin Brock** **Assistant Director**			
ACCEPTANCE OF ALL TERMS OF THIS AGREEMENT AND ITS ATTACHMENTS IS ACKNOWLEDGED BY THE PROJECT SPONSOR'S SIGNATURE BELOW. _____ Signatory Name, Title _____ Date		**PARTICIPANT ATTORNEY APPROVAL AS TO FORM AND AS BEING WITHIN THE AUTHORITY OF THE PROJECT SPONSOR (optional)** _____ Attorney's Signature _____	

The most recent version of the General Provisions based on the Project Sponsor and project type are attached and incorporated into this agreement.

DRAFT

Arizona State Parks
PROJECT SPONSOR AGREEMENT

Attachment A
Approved Project Scope and Special Conditions

PROJECT SPONSOR: City of Flagstaff Police Department

PROJECT TITLE: OHV Education and Enforcement

PROJECT NUMBER: 552506

PROJECT DESCRIPTION: Grant funds will be utilized for outreach in heavily trafficked OHV locations. Additionally, the department will enhance patrol and enforcement efforts in off-highway areas and support the Coconino County Sheriff's Office during holidays and special events related to OHV operations. Grant funds will be used for the following items:

- Overtime patrol
- 1 SXS with upgrades
- SXS communication package with install
- SXS LE lighting package with install
- Officer PPE

APPROVED PROJECT SCOPE:

Staff/Personnel Costs…….	**$20,238.00**
Staff/Personnel Costs (Match)…….	**$56,212.50**
Equipment/Materials…….	**$73,500.00**
Other – Information Material……...	**$10,000.00**
TOTAL	**$159,950.50**

DESCRIPTION AND SOURCE(S) AND AMOUNTS FOR APPROVED MATCH

A minimum 10% match is required for reimbursement. City of Flagstaff Police Department will provide up to $66,212.00 in cash and/or in-kind match in the form of staff time and supplies for this project.

SPECIAL CONDITIONS:
The administration of this grant agreement is additionally subject to the contents of the "Administrative Guidelines for Awarded Grants" found at:
https://arizona-content.usedirect.com/storage/2024-2025GrantManual.docx.pdf

Project applications are submitted as "shovel-ready" and project activities must begin immediately upon final execution of the project sponsor agreement.

Detailed Financial reports (Claims) in ASPT's on-line system are required at a minimum of every 6 months. Failure to provide these reports may result in a withdrawal (cancellation) of the project.

Upon completion of the project, a letter documenting that the project has been financially completed will be required. Payment for the final claim will be held until receipt of the letter.

Detailed Activity (Status) Reports are required bi-monthly (every other month) in WebGrants until the project end date specified in your Signed Project Agreement. Status Reports will require

DRAFT

detailed patrol reports to be included. Patrol reports (See Attachment C) should highlight officer name, patrol areas, dates, number of hours on patrol, number of contacts and number of citations, violations and warnings issued. Failure to provide status reports will result in delays for reimbursement processing and issuance of future grants, or a withdrawal of funding.

A final report with details and photos of the project is to be submitted by the project end date specified in the Project Sponsor Agreement. All outstanding expense and match documentation must also be submitted by the project end date specified in the Project Sponsor Agreement. Upon submission of the final status report, a final close out letter will be required to end the project.

See the General Provisions – Attachment B

OTHER CONDITIONS

Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Allocated project funds can only be expended on the designated scope items.

If any archeological remains are encountered during project related ground disturbance, work will cease in the area of the discovery and the participant will inform the Director of the Arizona State Museum pursuant to A.R.S. 41-844. The participant will then inform the Chief of Grant and Trails of the discovery to determine any further action that may be necessary.

Project costs above 10% of any line item must be approved by park staff prior to submitting that reimbursement. **Failure to request this change prior to submission will not be reimbursed.**

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

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

PART I – DEFINITIONS

For purposes of this Agreement:

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

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

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

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

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

F. "Facilities" mean capital improvements.

G. "Fund" means either the Federal Recreational Trails Program, the State Heritage Fund, the State Off-highway Vehicle Fund, or the State Lake Improvement Fund depending on the type of Grant program identified in the agreement.

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

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

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

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

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

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

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

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

P. "Sub-contract" means an Agreement/contract between the PROJECT SPONSOR and another individual or entity whereby labor, work, services, or other responsibilities are supplied or performed in furtherance

of the PROJECT SPONSOR'S responsibilities under this Agreement

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

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

PART II – PERFORMANCE

A. ADMINISTRATION

1. Conditions - This Agreement is subject to the availability of grant funds and appropriate approvals, and is subject to the Constitution of the State of Arizona, the Arizona Revised Statutes, the Arizona Administrative Code, other acts of the Arizona Legislature, executive orders of the Governor, and the decisions and policies of the BOARD.
2. Incorporation of Application, Grant Manual, and Administrative Guidelines - The following documents are incorporated by reference into this agreement: The PROJECT SPONSOR'S grant application packet; the applicable grant manual; and the most recent revision of the Administrative Guidelines for Awarded Grants. In the event of a conflict or ambiguity, the terms of this Agreement and Attachments A and B to this Agreement must take precedence.
3. Use of Grant Funds - Awarded grant funds must be used solely for eligible purposes of the funding program, as defined by statute and as approved by the BOARD.
4. Transfer of Grant Funds - Awarded grant funds will be transferred to the PROJECT SPONSOR according to the terms of this Agreement.
5. Grant Retention - Ten percent (10%) of the grant amount will be retained from reimbursement until Staff notifies the PROJECT SPONSOR in writing that the project is officially closed and completed.
6. Grant Accountability - Grant funds must be managed separately within the PROJECT SPONSOR'S accounting system that identifies the name and number of this project. The funds must only be expended as authorized under the terms of this Agreement.
7. Accomplishment of Project - The project must be accomplished according to the terms of this Agreement and applicable State laws.
8. Amendments - This Agreement may be amended in writing by the Parties of the Agreement upon written request of the PROJECT SPONSOR, good cause shown, and approval by the BOARD. Eligible amendments include adjustments to the project period, funding amount, or minor changes to the scope items.
9. Use of Project - Project accomplishments must be open or available to the public as specified in the Term of Public Use. If the grant funded capital improvements are not maintained and kept open for public use for the term specified in the Term of Public Use, the PROJECT SPONSOR must refund to the BOARD the awarded grant amount within six (6) months of the date the improvements are no longer maintained or kept open for public use, unless the BOARD agrees that obsolescence or conversion is appropriate.
10. Special Conditions - Special conditions to this agreement are binding upon and inure to the benefit of the successors and assigns of each of the Parties to this agreement. Breach of any condition will be enforceable by any remedies available under applicable Federal or State law.
11. Conversion - No land or facilities acquired or developed with State assistance will, without the approval of the BOARD, be converted to other than public use during the Term of Public Use. The BOARD will approve such conversion only if it finds the replacement property to be in accord with the current grant statute. Conversions will require the substitution of other properties of at least equal fair market value and of reasonably equivalent usefulness and location, and concurrence of the landowner. The replacement property will then become subject to this agreement. In lieu of conversion, the PROJECT SPONSOR may apply for a declaration of obsolescence. In the event the BOARD provides grant assistance for the acquisition and/or development of real property subject to reversionary interests, with full knowledge of those reversionary interests and with written notice of those reversionary interests, conversion of said property to other than public uses as a result of such reversionary uses being exercised may be approved. The PROJECT SPONSOR must notify the BOARD of the conversion as soon as possible and seek approval of replacement property in accord with the conditions set forth in this

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

B. RELATIONSHIP OF PROJECT COSTS TO THE PROJECT PERIOD

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

C. ACQUISITION

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

D. CARE AND DISPOSITION OF EQUIPMENT

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

E. SUB-CONTRACTS

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

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

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

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

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

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

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

G. EARNED INTEREST ON ADVANCED FUNDS

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

H. PRODUCT OR PUBLISHABLE MATTER OWNERSHIP

With written permission from the BOARD or Arizona State Parks, the PROJECT SPONSOR may use products or publishable matter produced with grant assistance the BOARD will have nonexclusive license

to use and reproduce, without payment, such materials. The PROJECT SPONSOR must receive written permission from State Parks prior to utilizing publishable material for commercial or public purposes. This paragraph is not applicable to architectural or engineering plans produced with grant assistance.

I. FUND SOURCE RECOGNITION

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

J. PROJECT COST VERIFICATION

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

K. TRANSFER OF CONTRACTUAL RESPONSIBILITY

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

PART III – COMPLIANCE

A. ANTI-TRUST

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

B. ARBITRATION

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

C. APPLICABLE LAW

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

D. NON-DISCRIMINATION

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

E. E-VERIFY

In accordance with A.R.S. § 41-4401, PROJECT SPONSOR warrants compliance with all Federal immigaration laws and regulations relating to employees and warrants its compliance with AAC section A.R.S. § 23-214, Subsection A.

F. AUDIT AND RECORDS RETENTION

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

G. CONFLICT OF INTEREST

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

H. REMEDIES

1. The BOARD may temporarily suspend grant assistance obligated to the PROJECT SPONSOR pending

required corrective action by the PROJECT SPONSOR or pending a decision to terminate the grant by the BOARD.

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

I. CULTURAL RESOURCES

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

K. DISCLOSURE REQUIREMENTS

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

L. INDEMNIFICATION

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

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

To the fullest extent permitted by law, sub-contractor shall defend, indemnify, and hold harmless the PROJECT SPONSOR and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, , officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or

any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

M. INSURANCE REQUIREMENTS

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

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

Minimum Scope and Limits of Insurance: PROJECT SPONSOR shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

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

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Blanket Contractual Liability – Written and Oral	$1,000,000
• Fire Legal Liability	$ 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 PROJECT SPONSOR.

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

2. Business Automobile Liability

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

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

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

b. Policy must contain a waiver of subrogation against the State of Arizona, as departments, agencies,

boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.

3. Worker's Compensation and Employers' Liability

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

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

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

Additional Insurance Requirements:

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

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

Notice of Cancellation:

Applicable to all insurance policies required within the Insurance Requirements of this Agreement, PROJECT SPONSOR'S insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, PROJECT SPONSOR must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

Acceptability of Insurers

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

Verification of Coverage:

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

1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
2. Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of

work under this Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

3. All certificates required by this Agreement shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

Subcontractors:

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

Approval and Modifications:

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

Exceptions:

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

Attachment C
AZ State Parks & Trails OHV LE Patrol Report

AZ State Parks Project #:		Patrol Start Time:	Patrol End Time:
Patrol Area:		County(ies):	Patrol Date:

Lead Patrol Agency	# of Officers	Patrol Hours

Agency(ies) Assisting in Patrol		

Number of Vehicles Contacted					Total Contacts
4x4	SIDE BY SIDE	ATV	MOTORCYCLE	OTHER	

Violations	Warnings (Written & Verbal)	Citations
28-1177A – OHV Decal		
28-1179B - <18 W/O Helmet		
28-892 – Carry Passengers in Excess		
28-2512 D.2 – Fail to Display Plate		
28- 2153A – No Registration		
28-701A - Speed > R/P		
28-1174 A.1 - Reckless Driving		
28-964 – Rear View Mirror, Eye Protection		
Illegal Lighting (Red, Blue, Flashing, Height)		
28-1524 – Allow to Operate in Violation		
28-1174 – Off Rd Travel/Damage/Signs		
17-454 – X Country Travel		
28-1595 A - Fail to Stop		
OTHER -		
Total Warnings and Citations		

Total Violations By Land Status:	State Land:	BLM:	USFS:	Other:	Arrests/Stolen/Impounded OHV's-

DUI's	# Over 21	# Under 21	AVERAGE BAC
28-1381 (A1/A2) Alcohol			
28- 1381 (A3) Drugs			
28-1382 Extreme (.15)			
28-1383 Aggravated			
Total Operators Consuming			
Total Designated Drivers			

Off-Highway Vehicle Accidents:
Comments:
Report Submitted By:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Bryce Doty, Real Estate Manager

Co-Submitter: Carmen Pryer

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Ordinance No. 2025-09: An ordinance of the City Council of the City of Flagstaff, authorizing the acquisition of real property interests for the Arroyo Seco to Dortha Channel as part of the Spruce Wash Channel Improvements Project; providing for delegation of authority, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:

1. Read Ordinance No. 2025-09 by title only for the first time
2. City Clerk reads Ordinance No. 2025-09 by title only

At the May 20, 2025 Meeting:

3. Read Ordinance No. 2025-09 by title only for the final time
4. City Clerk reads Ordinance No. 2025-09 by title only (if approved above)
5. Adopt Ordinance No.2025-09

Executive Summary:

The Arroyo Seco to Dortha Project, a project within the larger suite of Spruce Wash Channel Improvement Projects, will construct a channel above an existing storm drain between the houses on the West side of Rose St and the East side of Main St. Most of the construction activities will occur within existing platted easements for drainage; however, there are a few areas where the permanent drainage structure will require additional drainage easements. Additionally, there are some areas where temporary entry permits and temporary construction easements are necessary in order to grade the adjacent land into the slope of the channel. Importantly, the majority of the construction work will occur on the channel side of existing backyard fences. There may be some fences which need to be temporarily moved in order to construct, but temporary fencing will be installed and the existing fence will be salvaged or replaced in kind for those impacted property owners.

This ordinance authorizes staff to acquire those outstanding easements needed in order to construct the project. City staff will be offering to pay just compensation to the property owner for purchase of the real property, based on an appraised value or a market analysis. If the City is unable to reach an agreement with the property owner despite good faith negotiations, City Council will have the opportunity at a future public meeting to decide whether to adopt a resolution authorizing condemnation of the interests needed for the project.

Financial Impact:

Project Name: Arroyo Seco to Dortha Channel
Total Project Cost: $3,939,393.75
Account Number Budgeted: 410-08-385-3523-3
Acquisition Cost Estimate: $75,000:
Funding Source: Prop 441 funds

Policy Impact:
No

Previous Council Decision or Community Discussion:
This is the first time acquisitions for these property interests has been brought to council for consideration.

Options and Alternatives to Recommended Action:
If these property acquisitions are not authorized, the project could face construction delays.

Connection to PBB Priorities and Objectives:

- High Performing Governance - Enhance the organization's fiscal stability & increase efficiency & effectiveness
- Environmental Stewardship - Promote, protect & enhance a healthy sustainable environment & its natural resources

Connection to Regional Plan:

- Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.
- Increase the region's preparedness for extreme climate events.
- Incorporate pedestrian access, trails, and watchable wildlife opportunities into natural watercourses when practical.
- Improve mobility and access throughout the region.
- Increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community.

Connection to Carbon Neutrality Plan:
N/A

Connection to 10-Year Housing Plan:
N/A

Connection to Division Specific Plan:
N/A

Attachments: Ord. 2025-09
Exhibit A: Chart of Properties
Map of Area

ORDINANCE NO. 2025-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AUTHORIZING THE ACQUISITION OF REAL PROPERTY INTERESTS FOR THE ARROYO SECO TO DORTHA CHANNEL AS PART OF THE SPRUCE WASH CHANNEL IMPROVEMENTS PROJECT; PROVIDING FOR DELEGATION OF AUTHORITY, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City has authority to acquire real property, pursuant to the Article I, Section 3 of the Flagstaff City Charter; and

WHEREAS, acquisition of real property is to be approved by ordinance, pursuant to Article VII, Section 5 of the Flagstaff City Charter; and

WHEREAS, the City desires to acquire real property for the Arroyo Seco to Dortha Channel as part of the Spruce Wash Channel Improvements Project, a project that will help mitigate post-fire flooding risks in east Flagstaff, and to add open space to Ponderosa Park, each a public use.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the acquisition of all, or part of the real property identified in the attached Exhibit A. The real property interests may be acquired through purchase, exchange, gift, donation, dedication, or condemnation necessary for a public use; provided, however, prior to commencement of any condemnation proceeding the City Council shall adopt a separate resolution finding that the taking of the real property interest(s) is necessary for a public use and authorizing condemnation.

SECTION 2. Delegation of Authority

The Mayor, City Manager, Community Development Director, Real Estate Manager, City Attorney or their delegates or agents, 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. Repeal of Conflicting Ordinances.

Any ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 6. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of May 2025.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – Chart of Properties
Map of Area

APN	Type of Easement	Owner
109-09-002A	Temporary Construction Easement	Flagstaff Unified School District 1
109-09-002A	Temporary Construction Easement	Flagstaff Unified School District 1
109-19-030A	Temporary Construction Easement	Arroyo Seco Townhouses Homeowners Association Sterling Real Estate Managerment Peaks HOA Management 323 S River Run Road 86001
109-08-023	Temporary Construction Easement Drainage Easement	Arredondo Jacob D
109-08-024	Temporary Construction Easement Drainage Easement	Ortiz Oscar P & Maria D
109-08-026	Temporary Construction Easement Drainage Easement	Canyon Meadows LLC
109-08-027	Temporary Construction Easement Drainage Easement	Dixon Bradley
109-08-008	Temporary Construction Easement Drainage Easement	Otero Toni Marie 2804 N 1st Street Flagstaff 86004
109-08-029	Temporary Construction Easement Drainage Easement	Galaviz Gabriel A 2807 N Rose Street
109-08-009	Drainage Easement Temporary Construction Easement	Otero Edward M Sr Living Trust DTD 06-28-24 Edward M Otero, Sterling Trust 2804 N First St 86004
109-08-010	Temporary Construction Easement Drainage Easement	Villanueva Emily Jazmin 2808 N First St 86004
109-08-030	Temporary Construction Easement	Romero Ursula Marcella Living trust DTD 12-01-21 2813 N Rose St 86004
109-08-031	Drainage Easement Temporary Construction Easement	Archuleta Ana M 2817 N Rose St 86004
109-08-011	Temporary Construction Easement Drainage Easement	Garvin Benny S & Rose M 2812 N First St 86004
109-08-012	Drainage Easement Temporary Construction Easement	Herzberg Family Trust DTD 03-21-05 2816 N First St 86004
109-08-032	Temporary Construction Easement Drainage Easement	Cretti David Jeffrey 2821 N Rose St 86004
109-08-033A	Temporary Construction Easement Drainage Easement	Reilly Garrett B 2113 E Dortha Ave 86004
109-08-013	Temporary Construction Easement Drainage Easement	Garcia Ramon & Veronica 2820 N First St 86004

PLOTTED: Apr 11, 2025-9:38am

APN: 109-09-055C
SANTANA ARTURO

APN: 109-09-055B
YOUNG INGA D.

APN: 109-09-057
JARAMILLO MARGARET R.

APN: 109-08-002A
DAILEY JOHN M.

APN: 109-08-003A
GONZALES YVETTE M.

APN: 109-08-004
GONZALES YVETTE M.

APN: 109-08-005
SANDAKER LORI J.
TRUST

MATCHLINE STA 16+40.08 - REFER TO KILLIP INLET CONSTRUCTION PLANS FOR CONTINUATION OF DESIGN

N 1533389.90
E 789617.27

EX. DRAINAGE EASEMENT

PROPOSED T.C.E.

GRADING LIMITS

PROPOSED T.C.E.

N 1533587.73
E 789537.61

N 1533625.46
E 789519.47

PROPOSED T.C.E.

FENCE REMOVAL AND SALVAGE

FENCE REMOVAL AND SALVAGE

N 1533644.96
E 789509.02

FENCE REMOVAL AND SALVAGE

N 1533610.91
E 789561.16

MATCHLINE SEE BELOW

FENCE REMOVAL AND SALVAGE

N 1533432.32
E 789633.65

N 1533370.41
E 789664.39

N 1533585.56
E 789574.73

APN: 109-09-075
LAUC LETICIA
REVOCABLE TRUST

APN: 109-09-076
LINDQUIST DEBORAH
REVOCABLE FAMILY
TRUST

GRADING LIMITS

PROPOSED T.C.E.

PROPOSED T.C.E.

APN: 109-09-077C
LINDQUIST DEBORAH
REVOCABLE FAMILY
TRUST

APN: 109-08-021C
LINDQUIST DEBORAH
REVOCABLE FAMILY
TRUST

APN: 109-08-022
DAIZ ISABEL D.

APN: 109-08-023
ARREDONDO JACOB D.

APN: 109-08-024
ORTIZ OSCAR P. &
MARIA D.

APN: 109-08-025
AGUILAR CATALINA

APN: 109-08-006
NIETO EDWARD J. &
JOYCE I REVOCABLE
LIVING TRUST

APN: 109-08-007
NIETO EDWARD J. &
JOYCE I REVOCABLE
LIVING TRUST

APN: 109-08-008
OTERO TONI MARIE

APN: 109-08-009
OTERO EDWARD M.
SR. & TONI MARIE
GLORIA

APN: 109-08-010
VILLANUEVA EMILY
JAZMIN

APN: 109-08-011
GARVIN BENNY S. &
ROSE M.

APN: 109-08-012
HERZBERG FAMILY
TRUST

APN: 109-08-013
GARCIA RAMON &
VERONICA

APN: 109-08-014A
BROWN KURT B.

PROPOSED DRAINAGE EASEMENT

PROPOSED T.C.E.

PROPOSED DRAINAGE EASEMENT

GRADING LIMITS

PROPOSED T.C.E.

PROPOSED T.C.E.

N 1533997.24
E 789330.08

N 1534102.96
E 789292.13

FENCE REMOVAL AND SALVAGE

FENCE REMOVAL AND SALVAGE

REMOVE AND SALVAGE FENCE AND GATE
AROUND EX. BUBBLER STRUCTURE

N 1533782.99
E 789446.15

N 1533792.93
E 789441.07

FENCE REMOVAL
AND SALVAGE

N 1533988.26
E 789362.76

N 1534099.58
E 789326.23

MATCHLINE SEE ABOVE

GRADING LIMITS

PROPOSED DRAINAGE EASEMENT

PROPOSED T.C.E.

PROPOSED DRAINAGE EASEMENT

PROPOSED T.C.E.

PROPOSED DRAINAGE EASEMENT

PROPOSED T.C.E.

PROPOSED DRAINAGE EASEMENT

PROPOSED T.C.E.

EX. DRAINAGE EASEMENT

DORTHA AVENUE

APN: 109-08-026
CANYON MEADOW
LLC

APN: 109-08-027
KWON KWON

APN: 109-08-028
SNOW REUBEN A.

APN: 109-08-029
GALAVIZ GABRIEL A.

APN: 109-08-030
ROMERA URSULA
MARCELLA LIVING
TRUST

APN: 109-08-031
ARCHULETA ANA M.

APN: 109-08-032
CRETTI DAVID JEFFEREY

APN: 109-08-033A
REILLY GARRETT B.

SCALE 1" : 20'
0 10 20

90% DESIGN
PRELIMINARY

NOT FOR CONSTRUCTION,
BIDDING OR RECORDING

C.O.F. #PZ-21-00236

FILE: P:\2023\223126\DRAWINGS\EXHIBITS\223126 - FENCE REMOVAL EXHIBIT.DWG SSALLY

FLAGSTAFF
ARIZONA

SPRUCE WASH – ARROYO TO DORTHA CHNL

DEMOLITION PLAN

JOB NO:	223126
DATE:	JAN 2025
SCALE:	AS SHOWN
DRAWN:	SPS
DESIGN:	KMF/SPS
CHECKED:	KMF/RLS

124 N. Elden Street
Flagstaff, AZ 86001
928.774.4636

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An ARDURRA Company

REVISIONS			
NO.	DESCRIPTION	DATE	BY

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ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

DRAWING NO.
DM01

SHT NO. 5 OF 12

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Stacy Saltzburg, City Clerk

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE:

Consideration and Adoption of Ordinance No. 2025-08: An ordinance of the City Council of the City of Flagstaff, establishing the number of signatures required for City of Flagstaff candidate nomination petitions, providing for severability, authority for clerical corrections, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the May 6, 2025 Council Meeting:

1) Read Ordinance No. 2025-08 by title only for the first time
2) City Clerk reads Ordinance No. 2025-08 by title only (if approved above)

At the May 20, 2025 Council Meeting:

3) Read Ordinance No. 2025-08 by title only for the final time
4) City Clerk reads Ordinance No. 2025-08 by title only (if approved above)
5) Adopt Ordinance No. 2025-08

Executive Summary:

In November 2023, City of Flagstaff voters approved an amendment to the City Charter to add the ability for City Council to adjust the number of signatures required for candidate nomination petitions. Prior to this amendment, the City calculated the signatures based on a formula within state statute which required city candidate nomination petitions to contain at least five (5) percent and not more than ten (10) percent of the votes cast for Mayor.

Arizona Revised Statutes § 39-322 (A)(8) provides that a city holding nonpartisan elections may by ordinance establish the minimum number of signatures to be one thousand signatures or five percent of the vote in the city, whichever is less, but not more than ten percent of the vote in the city. Flagstaff was not able to utilize this provision because the City Charter did not previously allow for it.

With the recent Charter amendment, Council now has the opportunity to reduce the number of signatures to one thousand if they so choose. As we are moving toward election season for 2026, staff would like direction on whether Council would like to utilize this signature-reduction provision.

Financial Impact:

None

Policy Impact:

None

Previous Council Decision or Community Discussion:

Council authorized the Charter amendment to be presented to voters at the November 2023 election.

Options and Alternatives to Recommended Action:

The Council may decide not to implement the reduction.

Connection to PBB Priorities and Objectives:
High Performing Governance
Inclusive & Engaged Community

Connection to Regional Plan:
None

Connection to Carbon Neutrality Plan:
None

Connection to 10-Year Housing Plan:
None

Attachments: Ord. 2025-08

ORDINANCE NO. 2025-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ESTABLISHING THE NUMBER OF SIGNATURES REQUIRED FOR CITY OF FLAGSTAFF CANDIDATE NOMINATION PETITIONS, PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Arizona Revised Statutes § 39-322 (A)(8) establishes the minimum number of signatures required on an at large city candidate's nomination petitions to be at least five (5) percent and not more than ten (10) percent of the vote in the city; and

WHEREAS, Arizona Revised Statutes § 39-322 (A)(8) also provides that a city holding nonpartisan elections may by ordinance establish the minimum number of signatures to be one thousand signatures or five percent of the vote in the city, whichever is less, but not more than ten percent of the vote in the city;" and

WHEREAS, it has been determined that it is appropriate to establish the number of signatures required for Flagstaff mayoral and council candidate nomination petitions.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General

The minimum number of nomination petition signatures required for a candidate for the office of mayor or council to have their name included on the Flagstaff municipal election ballot shall be one thousand signatures or five percent of the vote for Mayor in the last preceding Mayoral election, whichever is less, but not more than ten percent of the vote for Mayor in the last preceding election.

SECTION 2. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 20th day of May, 2025.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Michelle McNulty, Interim Community Development Director

Co-Submitter: Sara Darr, Housing Director and Nicole Antonopoulos, Sustainability Director

Co-Submitter: Nicole Antonopoulos

Date: 04/28/2025

Meeting Date: 05/06/2025

TITLE
LASS + CAP Code Concepts Report Follow-Up

STAFF RECOMMENDED ACTION:

Staff seeks direction on the Land Availability and Suitability Study and Code Analysis Project (LASS+CAP) draft Code Concepts Reports to identify the focus of the next phase, which includes refining the core development standards, incentives, and concepts into more detailed, actionable recommendations for either specific code amendments or further analysis.

Executive Summary:
The purpose of the CAP is to analyze and evaluate the City's development codes and processes to understand and identify ways to overcome barriers to the City's 10-Year Housing Plan and Carbon Neutrality Plan. Through these plans, the City has committed to achieving the following goals:

The 10-Year Housing Plan aims to reduce the affordable housing need in our community by half over the next ten years through two elements:

1. Impact at least 6,000 low-to-moderate income Flagstaff residents through a combination of unit creation or subsidy provision.
2. Create or preserve 7,976 housing units by 2031 with a minimum of 10% of them being affordable. This will increase the overall supply of market rate, workforce, and affordable housing occupied by local residents.

The Carbon Neutrality Plan has three primary goals:

1. Achieve carbon neutrality by 2030 through a 44% reduction in greenhouse gas emissions.
2. Prepare Flagstaff's communities, systems, and resources to be more resilient to climate change impacts.
3. Address climate change in a manner that prioritizes those most impacted and ensures the costs and benefits of climate adaptation and mitigation are equitably distributed.

Information:
The CAP already produced a Code Diagnostic Report, which identified and analyzed barriers to key outcomes in the 10-Year Housing Plan and the Carbon Neutrality Plan. The current phase explores options for code updates to address the most significant barriers. The report is organized into:

A. Code Concepts focus on conceptual updates to address key barriers associated with the following code sections/topics:

1. Sustainable Development Standards and Incentives, including Transportation Demand Management (TDM)

2. Resource Protection Overlay Zone
3. Reduced Street Widths
4. Winter Parking Ordinance and Snow Removal

The Code Concepts are independent of, and intended to complement and inform, the three scenarios for core development standards and incentives.

B. Scenarios for Core Development Standards and Incentives focus on how different combinations and calibrations of interrelated core development standards and incentives impact housing and climate outcomes associated with new development and redevelopment. They are packaged into three conceptual scenarios, each of which explores variations on:

1. Use Regulations and Housing Types by Zone District
2. Maximum Density
3. Floor Area Ratio (FAR)
4. Minimum Parking Requirements
5. Affordable Housing Incentives
6. Sustainable Building Incentives
7. Menu of Sustainable Development Standards

Decision Points:

City staff are seeking direction on the questions below. Decisions will inform LASS+CAP Task Five to prepare final recommendations for code, incentive, and policy changes.

1. Which outcomes are preferred to address housing and climate outcomes together?
    a. Are there any zoning districts that should be excluded or treated differently?
2. Should by right density increases be limited to areas that have Low Vehicles Miles Traveled or some similar geography? This may require area-wide rezoning, a new overlay zone, or new zoning standards that incentivize transit-oriented projects.
    a. Do we want to increase density allowances for affordable housing projects (those that serve a certain Area Median Income--AMI) or all Market Rate Housing?
3. Floor Area Ratio (FAR) caps
    a. Do you support managing the intensity of residential land uses with a tool like FAR caps? Density increases will impact the current High Occupancy Housing (HOH) standards, which are intended to address the intensity of residential land uses.
4. Do you support moving forward with substantial reductions in parking minimums?
    a. Should parking be left to the developer or market to decide? (No minimum standards). Or should there still be standards? b. Should on-street parking be addressed in conjunction with reducing parking requirements?
5. Sustainability and Transportation Demand Management (TDM)
    a. Do you support creating a menu of sustainable design standards for developers to choose from? This would provide flexibility while raising standards. These standards would be accompanied by an increase in density and reduction in parking.
    b. Should a wider menu of TDM strategies (such as carpooling, transit-oriented design, bicycle facilities, transit passes, site design, etc.) be included as part of this menu, in addition to standards focused reductions in energy, water, waste, and greenhouse gas emissions?
6. Reduced Street Width:
    a. Do you support developing a strategy and outlining a process for creating a narrower local street design option??
7. Winter Parking Ordinance:
    a. Do you support developing a strategy and outlining a process for replacing the current Winter Parking Ordinance

---

Attachments: Presentation

City Council Update

May 6, 2025

LASS +CAP

LAND AVAILABILITY AND SUITABILITY STUDY + CODE ANALYSIS PROJECT

CITY OF FLAGSTAFF

CODE ANALYSIS PROJECT– CODE CONCEPTS REPORT

NOVEMBER 2024 DRAFT

LASS +CAP
LAND AVAILABILITY AND SUITABILITY STUDY + CODE ANALYSIS PROJECT

Agenda

1. City of Flagstaff Housing & Climate Goals
2. LASS+CAP purpose and progress
3. Code Concepts Overview
    - Code Concepts
    - Scenarios
    - Key findings
4. Decision Points
5. Next Steps

LASS +CAP
LAND AVAILABILITY AND SUITABILITY STUDY + CODE ANALYSIS PROJECT

City Housing and Climate Goals

The 10-Year Housing Plan aims to reduce the affordable housing need in our community by half over the next ten years through two elements:

1. Impact at least 6,000 low-to-moderate income Flagstaff residents through a combination of unit creation or subsidy provision
2. Create or preserve 7,976 housing units by 2031 with a minimum of 10% of them being affordable. This will increase the overall supply of market rate, workforce, and affordable housing occupied by local residents

The Carbon Neutrality Plan has three primary goals:

1. Achieve carbon neutrality by 2030 through a 44% reduction in greenhouse gas emissions
2. Prepare Flagstaff's communities, systems, and resources to be more resilient to climate change impacts
3. Address climate change in a manner that prioritizes those most impacted and ensures the costs and benefits of climate adaptation and mitigation are equitably distributed

Overview & Objectives of the LASS+CAP Project

- The Land Availability & Site Suitability Study (LASS) examines the suitability of available land to determine opportunities and barriers to housing development (**Complete**)

- The Code Analysis Project (CAP) is intended to evaluate development codes and processes to identify areas of improvement towards the City's housing and climate goals. The project has been broken into three separate tasks:
  - Phase 1: Code Diagnostic Report (**Complete**)
  - **Phase 2: Code Concepts to address highest priority barriers** (**We are here**)
    - Assessment of transit-related codes
  - Phase 3: Final Code Recommendations

LASS +CAP
LAND AVAILABILITY AND SUITABILITY STUDY + CODE ANALYSIS PROJECT

Public Outreach To Date

- Various City Commissions:
  - Housing Commission
  - Sustainability Commission
  - Planning and Zoning Commission
  - Historic Preservation Commission
  - Commission on Inclusive and Adaptive Living
  - Commission on Diversity Awareness
  - Transportation Commission
- Mountain Line TAC and Executive Board
- Chamber of Commerce
- ECoNA
- Friends of Flagstaff's Future's Board
- Northern Arizona Climate Change Alliance
- Coming soon: MetroPlan TAC and Executive Board

LASS +CAP
LAND AVAILABILITY AND SUITABILITY STUDY + CODE ANALYSIS PROJECT

Phase 1: Code Diagnostic Report

Identified key code barriers to housing & climate goals

Residential Zones

Commercial Zones

Parking Requirements

High Occupancy Housing

ZONING MAP AMENDMENT PROCESS

SUBDIVISION PROCEDURES

STREET WIDTH AND DESIGN

WINTER PARKING ORDINANCE

Resource Protection Overlay

Affordable Housing Incentives

Sustainable Building Incentives

STREET CONNECTIVITY

TRANSPORTATION IMPACT FEES

TRANSPORTATION DEMAND MANAGEMENT FOR TIAS.

Phase 2: Code Concepts

Explores potential options & alternatives for updating the following topics in City Code:

Code Concepts

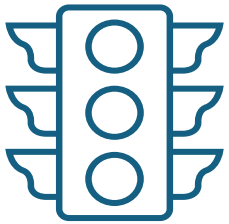
1. Sustainability Standards and Incentives
2. Resource Protection Overlay Zone
3. Reduced Street Widths
4. Winter Parking Ordinance and Snow Removal

Scenarios for Core Standards and Incentives

1. Use Regulations and Housing Types by Zone District
2. Maximum Density
3. Floor Area Ratio (FAR)
4. Minimum Parking Requirements
5. Affordable Housing Incentives
6. Sustainable Building Incentives
7. Menu of Sustainable Development Standards

Transit-Related Codes Assessment

Code Concepts



Menu of Sustainability and Transportation Demand Management (TDM) Standards

- **Menu or points-based approach** of standards and incentives that developers can choose from to foster a higher level of sustainable design in all projects
- **TDM is a critical component** (carpooling, transit-oriented design, bicycle facilities, transit passes, site design, etc.)

Resource Protection Overlay

- Migrate from a broad overlay zone that requires site-specific inventories to a more **focused overlay that focuses on resources that were inventoried as part of a city-wide study** (could apply to both forest and slope resources)
- Resource protection standards should **not restrict density more than base zoning** and should allow overlapping slope and forest resources to count towards meeting both requirements

Code Concepts

Reduced Street Widths

- **New options for narrower street designs** that would allow slightly higher density for some development types, reduce street construction costs for all developments, and calm traffic speeds

Winter Parking Ordinance and Snow Removal

Alternative code concepts include:

- **Designating specific streets for snow removal** based on traffic volumes and necessity for emergency services
- Implementing a form of **alternative/odd-even parking limitations** so that at least one side of a public street is available for overnight parking during snow removal
- **Only prohibiting on-street parking during a declared snow accumulation** event based on a specific amount of snow and ice accumulation so that on-street parking is available during non-accumulation

Scenarios for Core Standards and Incentives

Scenario 1 – Optimize Incentives for Sustainable Design and Affordable Housing

Scenario 2 – Elevate Sustainable Design and Increase Market Rate Housing Production

Scenario 3 – Increase Density to support Market Rate Housing Production and Indirectly Support Sustainability*

*Scenario 3 was formerly titled 'Support Sustainability Through Density and Maximize Housing Production'

City Council may provide direction on a final scenario based on the code concepts, core development standards, and incentives. It may include a combination of elements from each of the three scenarios that best advance housing and climate goals.

Scenario 1

Scenario	By-Right Standards	Incentives
Existing Code	• Density from 6-29 units per acre • Parking from 1-3 spaces per unit	• Density bonus for sustainability: 25% • Density bonus affordable units: Up to 45% • Parking reduction limited to affordable units at 1 space at unit
Scenario 1 – Optimize incentives for sustainable design and affordable housing	• No increase in max density • No parking reduction	• No change to incentive requirements • Major increase in density bonus and major parking reduction for incentive projects

Scenario 2

Scenario	By-Right Standards	Incentives
Scenario 2 – Elevate Sustainable Design and Increase Housing Production	• Increase max density to 10-80 units per acre • Reduce base parking to between 1-1.5 spaces per unit • Single-use residential buildings permitted in commercial zones • Introduce FAR caps in most zones • Apply new sustainability requirements to all projects.	• Elevated sustainability standards for projects that use sustainability incentives • Minor increases in density bonus for incentive projects • Major parking reduction for incentive projects

Scenario 3

Scenario	By-Right Standards	Incentives
Scenario 3 – Support Sustainability Through Density and Maximize Housing Production	• Increase max density to 10-80 units per acre • Reduce base parking to between 1-1.5 spaces per unit • Single-use residential buildings permitted in commercial zones	• No change to incentive requirements. • Minor increase in density bonus for incentive projects • Major parking reduction for incentive projects

Key Findings & Implications from Scenarios

- **Scenario 1: increasing the attractiveness of incentives presents a viable opportunity to incentivize affordable housing and elevated sustainable design**
  - Unlikely to increase the overall housing stock on its own
  - Lowest risk option for Proposition 207 claims
- **Scenario 2: it is viable to elevate sustainability standards for all new development and increase market-rate housing production by pairing these standards with increased density and reduced parking**
  - Unlikely to increase affordable housing stock on its own
  - FAR caps can regulate development intensity and promote smaller housing units
- **Scenario 3: increasing density and reducing parking can increase market-rate housing production but achieves fewer sustainability outcomes than Scenario 2**
  - Unlikely to increase the affordable housing stock on its own

Key Findings & Implications from Scenarios

1. On an absolute basis, the existing development environment is extremely challenging due to the high cost of construction and land
2. Across all scenarios, parking reductions are critical to the market feasibility of higher-density housing
3. If the City desires to concentrate density in areas where households are likely to drive less, then targeted rezoning, a new overlay zone, or proximity-based code regulations would be more effective than using existing base zones
4. If the policy goal is to broadly increase density throughout the community (Scenarios 2 and 3), then updating the core development standards is the most effective approach
5. The increase in housing capacity under Scenario 1 is highly dependent on increased uptake of density bonuses under the incentive program

Transit-Related Code Analysis Findings

Infill Development and Compact Land Use Patterns

- Better orientation between buildings and transit stops
- Road network requirements for new subdivisions
- Corridor focus: high occupancy housing + transit-oriented development
- Incentivize and encourage private transit-oriented development
- Developer coordination
- Integration of Mountain Line planning documents with local plans and codes

Sustainable Transportation Networks and Neighborhoods

- Transit improvements with new development
- Transit in the TIA process
- Funding transit infrastructure improvements
- Incentivizing purchase of bulk transit passes
- Private funding of transit operations

Electric Mobility

- On-route magnetic bus charging locations

Decision Points

Q1: Outcomes

LASS +CAP
LAND AVAILABILITY AND SUITABILITY STUDY + CODE ANALYSIS PROJECT

Which outcomes are preferred to address housing and climate outcomes together?

Anticipated Housing and Climate Outcomes by Scenario			
	Scenario 1	Scenario 2	Scenario 3
10-Year Housing Plan	Moderate	High	High
Carbon Neutrality Plan	Low	High	Moderate

Are there any zoning districts that should be excluded or treated differently?

Decision Points

Q2: Density

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Where and how should we increase density?

- **Should by-right density increases be limited to areas where people tend to drive less?**
  - The report identified areas where people tend to drive less than average.
  - Concentrating density in these areas may require area-wide rezoning, a new overlay zone, or new zoning standards that incentivize transit-oriented projects

- **Do we want to increase density allowances for affordable housing projects (those that serve a certain Area Median Income—AMI) or all Market Rate Housing?**

Decision Points

Q3: FAR

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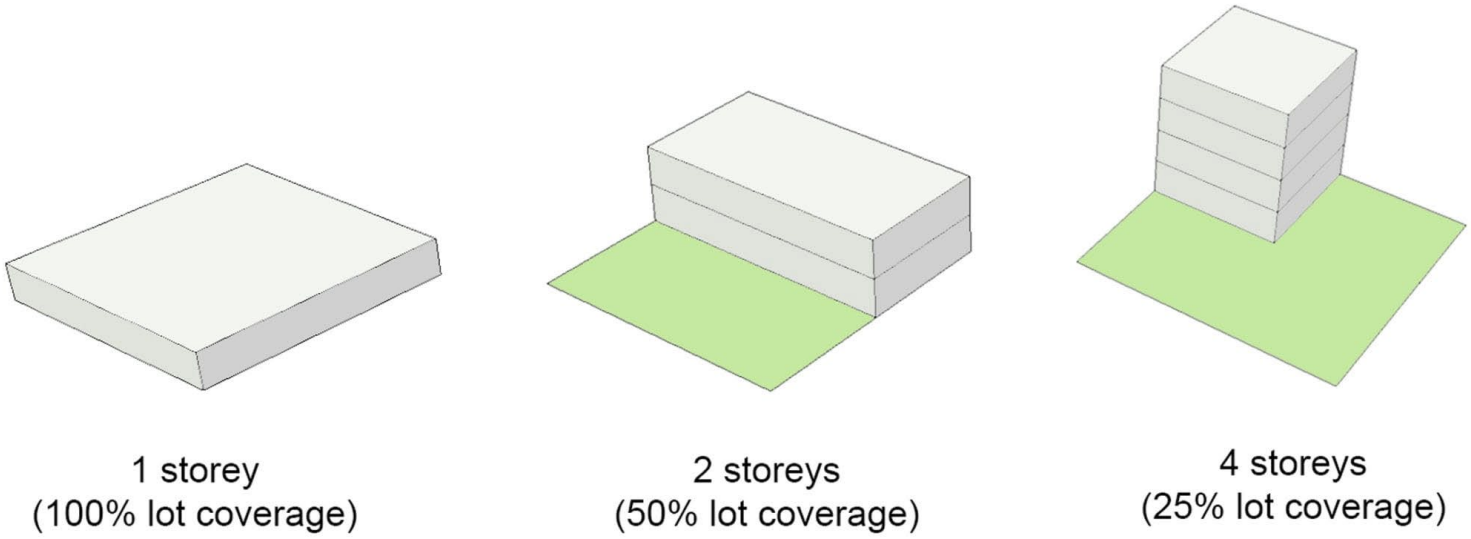
Do you support managing the intensity of residential land uses with floor area ratio (FAR) caps?

- FAR caps are another tool to regulate the intensity of new development and can encourage smaller unit sizes
  - The City's commercial zones currently have FAR caps
- Density increases will impact the current High Occupancy Housing (HOH) standards, which are intended to address the intensity of residential land uses

Floor Area Ratio

$$\text{FLOOR AREA RATIO} = \frac{\text{Gross Floor Area}}{\text{Parcel Size}}$$

Floor Area Ratio (FAR)
An example of 1.0 FAR



1 storey
(100% lot coverage)

2 storeys
(50% lot coverage)

4 storeys
(25% lot coverage)

Decision Points

Q4: Menu of Sustainability Options

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Do you support creating a menu of sustainable design standards for developers to choose from?

- A menu or points-based approach would provide flexibility while raising standards for reducing energy and water use, waste, and greenhouse gas emissions
- These standards would be accompanied by an increase in density and a reduction in parking

Should a wider menu of Transportation Demand Management (TDM) strategies (such as carpooling, transit-oriented design, bicycle facilities, transit passes, site design, etc.) be included in this menu?

- The Code Concepts Report found TDM is a critical component of a sustainable design standards menu

Sustainability Standards by Scenario

Sustainability Features	Existing Code			Scenario 1 Optimize Incentives			Scenario 2 By-Right Sustainability			Scenario 3 By-Right Housing Production		
	B	S	A	B	S	A	B	S	A	B	S	A
Energy-Efficiency Standard	No	(1)	No	No	(1)	No	(1)	(2)	(1)	No	(1)	No
All-Electric Building	No	Yes	No	No	Yes	No	No	Yes	No	No	Yes	No
On-Site Solar	No	No	No	No	No	No	No	Yes	No	No	No	No
Water Resource Protection	No	Yes	No	No	Yes	No	Yes	Yes	Yes	No	Yes	No
Sustainable Materials	No	No	No	No	No	No	Yes	Yes	Yes	No	No	No
Materials Management Plan	No	Yes	No	No	Yes	No	Yes	Yes	Yes	No	Yes	No
Deconstruction Required	No	No	No	No	No	No	Yes	Yes	Yes	No	No	No
EV Charging Spaces	No	Yes	No	No	Yes	No	30%	50%	30%	No	Yes	No
Secure Bike Parking	No	No	No	No	No	No	Yes	Yes	Yes	No	No	No
Transit Passes	No	No	No	No	No	No	Yes	Yes	Yes	No	No	No

B = By-Right; **S** = Sustainable Incentive Projects; **A** = Affordable Incentive Project

Decision Points

Q5: Parking

Do you support moving forward with parking reductions?

- Should parking be left to the developer or the market to decide (no minimum standards)?
  - Or, should there be standards?
- Should on-street parking be addressed in conjunction with reducing parking standards?

Parking Standards by Scenario: 20-Unit Multifamily Development (Example)

Scenario 1 Enhanced Incentives

- 0.75 parking spaces required per unit (0.75 x 20 = 15)
- 0.25 guest parking spaces required per unit (0.25 x 20 = 5)
- Total Required = 20 parking spaces

Scenarios 2 & 3: Enhanced Core Development Standards

- 1.25 parking spaces per unit (1.25 x 20 = 25)
- .25 guest parking spaces required per unit (.25 x 20 = 5)
- Total Required = 30 parking spaces

Decision Points

Q6: Reduced Street Widths

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Reduced Street Widths

These code concepts propose new options for narrower street designs that would allow slightly higher density for some development types, reduce street construction costs for all developments, and calm traffic speeds.

Do you support developing a strategy and outlining a process for creating a narrower local street design option?

Decision Points

Q7: Winter Parking Ordinance

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Alternative code concepts include:

- Designating specific streets for snow removal based on traffic volumes and necessity for emergency services.
- Implementing a form of alternative/odd-even parking limitations so that at least one side of a public street is available for overnight parking during snow removal.
- Only prohibiting on-street parking during a declared snow accumulation event based on a specific amount of snow and ice accumulation so that on-street parking is available during non-accumulation.

Do you support developing a strategy and outlining a process for replacing the current Winter Parking Ordinance?

Next Steps

Public Outreach

- Throughout the overall process
- Community Conversation: June 13

Resolve outstanding Decision Point questions for consulting team

Phase 3: Formal Code Recommendations

Preparation and adoption of Code Amendments